Changes to Legislation: as of 5 April 2024, this Act is up to date with all changes known to be in force.

Number 25 *of* 2014

IRISH HUMAN RIGHTS AND EQUALITY COMMISSION ACT 2014

REVISED

Updated to 3 July 2023

This Revised Act is an administrative consolidation of the *Irish Human Rights and Equality Commission Act 2014*. 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 *Courts and Civil Law (Miscellaneous Provisions) Act 2023* (18/2023), enacted 5 July 2023, and all statutory instruments up to and including the *Work Life Balance and Miscellaneous Provisions Act 2023 (Commencement) Order 2023* (S.I. No. 341 of 2023), made 3 July 2023, were considered in the preparation of this Revised Act.

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Number 25 *of* 2014

IRISH HUMAN RIGHTS AND EQUALITY COMMISSION ACT 2014

REVISED

Updated to 3 July 2023

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Number 25 *of* 2014

IRISH HUMAN RIGHTS AND EQUALITY COMMISSION ACT 2014

REVISED

Updated to 3 July 2023

An Act to provide for the establishment of a body to be known as Coimisiún na hÉireann um Chearta an Duine agus Comhionannas or, in the English language, the Irish Human Rights and Equality Commission; to provide for the dissolution of the Human Rights Commission and the Equality Authority and the transfer of their functions to that body; to provide for the conferral of other functions on the said body; to provide that the said body is the body designated for the purposes of Directive 2014/54/EU of the European Parliament and of the Council of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers[1]; to amend the Employment Equality Act 1998, the Equal Status Act 2000 and the European Convention on Human Rights Act 2003; to repeal the Human Rights Commission Act 2000; and to provide for matters connected therewith.

[27 *th July*, 2014]

Be it enacted by the Oireachtas as follows:

PART 1

Preliminary and General

Short title, collective citation, construction and commencement

1. (1) This Act may be cited as the Irish Human Rights and Equality Commission Act 2014.

(2) The European Convention on Human Rights Act 2003 and *Part 5* may be cited as the European Convention on Human Rights Acts 2003 and 2014.

(3) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions, and for the repeal of different provisions of the enactments effected by *section 7* .

[1] OJL 128/8, 30.4.2014.

Interpretation

2. (1) In this Act—

"Act of 1998" means the Employment Equality Act 1998;

"Act of 2000" means the Equal Status Act 2000;

"Act of 2003", other than in *Part 5*, means the Intoxicating Liquor Act 2003;

"advisory committee" means a committee appointed by the Commission under *section 18* ;

"Chief Commissioner" has the meaning assigned to it by *section 12* ;

"Commission" has the meaning assigned to it by *section 9* ;

"Council Regulation 168/2007" means Council Regulation (EC) No. 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights[2];

"dignity" means, in relation to a person, the inviolable intrinsic value, equal to other persons, that the person has and includes the recognition by other persons of such value with respect of that person;

"Director" means the Director of the Commission;

"discriminate", in so far as it relates to—

(a) matters to which the Act of 1998 relate, has the meaning it has in the section 6 of that Act, and

(b) matters to which the Act of 2000 relate, has the meaning it has in section 3(1) or 4(1) of that Act,

and includes the issuing of an instruction to discriminate and prohibited conduct;

"discriminatory grounds" in so far as it relates to—

(a) matters to which the Act of 1998 relate, has the meaning it has in the section 6(1) of that Act, and

(b) matters to which the Act of 2000 relate, has the meaning it has in section 3(2) of that Act;

"enactment" means a statute or an instrument made under a power conferred by statute;

"equality action plan" and "equality review" have the meanings respectively assigned to them by *section 29* ;

"European Union Agency for Fundamental Rights" means the agency established under Council Regulation 168/2007;

"human rights", other than in *Part 3*, means—

(a) the rights, liberties and freedoms conferred on, or guaranteed to, persons by the Constitution,

(b) the rights, liberties or freedoms conferred on, or guaranteed to, persons by any agreement, treaty or convention to which the State is a party, and

[2] OJL 053, 22/02/2007 p. 0001 - 0014.

(c) without prejudice to the generality of *paragraphs (a)* and *(b)*, the rights, liberties and freedoms that may reasonably be inferred as being—

(i) inherent in persons as human beings, and

(ii) necessary to enable each person to live with dignity and participate in the economic, social or cultural life in the State;

"inquiry" means an inquiry conducted by the Commission under *section 35* ;

"Minister" means the Minister for Justice and Equality;

"prescribed" means prescribed by regulations made by the Minister;

"prohibited conduct" has the meaning it has in section 2 of the Act of 2000;

"public body" means—

(a) a Department of State (other than, in relation to the Department of Defence, the Defence Forces) for which a Minister of the Governme1nt is responsible,

(b) a local authority within the meaning of the Local Government Act 2001,

(c) the Health Service Executive,

(d) a university or institute of technology,

(e) an education and training board established under section 9 of the Education and Training Boards Act 2013,

(f) any other person, body or organisation established—

(i) by or under an enactment (other than the Companies Acts) or charter,

(ii) by any Scheme administered by a Minister of the Government, or

(iii) under the Companies Acts in pursuance of powers conferred by or under another enactment, and financed wholly or partly by means of money provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government,

(g) a company (within the meaning of the Companies Acts) a majority of the shares in which are held by or on behalf of a Minister of the Government,

(h) any other person, body, organisation or group financed wholly or partly out of moneys provided by the Oireachtas that stands prescribed for the time being (being a person, body, organisation or group that, in the opinion of the Minister, following consultation with the Commission, ought, in the public interest and having regard to the provisions and spirit of this Act, to be prescribed);

"selection panel" means a panel of persons appointed by the Service under *section 13* ;

"Service" means the Public Appointments Service.

(2) In this Act a reference to "relevant agencies and civil society" includes a reference to—

(a) non-governmental organisations concerned with the promotion or protection of human rights or equality, including organisations specialising in the promotion of economic and social development,

(b) trade unions and other business, professional and social organisations,

(c) third level institutions and other experts in education,

(d) religious bodies, secular bodies (within the meaning of the Civil Registration (Amendment) Act 2012) or other groups that are representative of religious thought and beliefs or philosophical beliefs, and

(e) public bodies.

Regulations

3. (1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed.

(2) Regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

(3) Every regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House sits after the regulation is laid before it, the regulation shall be annulled accordingly, without prejudice to the validity of anything previously done thereunder.

Expenses

4. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure 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.

(2) For the purposes of this section, a company within the meaning of the Companies Acts 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.

Penalties

6. (1) A person guilty of an offence under this Act (other than an offence under *section 33* or *36*) shall be liable—

(a) on summary conviction to a class C fine or to imprisonment for a term not exceeding 1 year or to both, or

(b) on conviction on indictment, to a fine not exceeding €32,000 or to imprisonment for a term not exceeding 2 years or to both.

(2) Where an offence under this Act is committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any wilful neglect of a person who was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person, as well as the body corporate, shall be guilty of an offence and may be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(3) Where the affairs of a body corporate are managed by its members, *subsection (2)* applies to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

(4) Summary proceedings for an offence under this Act may be brought and prosecuted by the Commission.

Repeals

7. Each of the Acts specified in column (1) and column (2) of *Schedule 1* is repealed to the extent specified in column (3) of that Schedule.

PART 2

Irish Human Rights and Equality Commission

Establishment day

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

Establishment of Irish Human Rights and Equality Commission

9. (1) There shall stand established on the establishment day, a body which shall be known, in the Irish language as Coimisiún na hÉireann um Chearta an Duine agus Comhionannas or, in the English language, the Irish Human Rights and Equality Commission (in this Act referred to as the "Commission"), to perform the functions conferred on it by or under this Act.

(2) The Commission shall, subject to the provisions of this Act, be independent in the performance of its functions.

(3) Notwithstanding the generality of *subsection (2)*, the Commission shall in the performance of its functions have regard to, and be guided by, best international practice applicable to national human rights institutions and to equality bodies.

(4) 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 given with the approval of the Minister for Public Expenditure 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.

(5) The seal of the Commission shall be authenticated by the signatures of—

(a) the Chief Commissioner, or another member of the Commission authorised by it to act on its behalf, and

(b) a member of staff of the Commission authorised by it to act in that behalf.

(6) 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 shown, be received in evidence and be deemed to be such an instrument without further proof.

Functions of Commission

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

(a) to protect and promote human rights and equality,

(b) to encourage the development of a culture of respect for human rights, equality, and intercultural understanding in the State,

(c) to promote understanding and awareness of the importance of human rights and equality in the State,

(d) to encourage good practice in intercultural relations, to promote tolerance and acceptance of diversity in the State and respect for the freedom and dignity of each person, and

(e) to work towards the elimination of human rights abuses, discrimination and prohibited conduct.

(2) The Commission shall, in furtherance of the functions referred to in *subsection (1)*, have, in addition to the functions assigned to it by any other provision of this Act or of any other enactment, the following functions:

(a) to provide information to the public in relation to human rights and equality generally including information in respect of the enactments to which *section 30* refers;

(b) to keep under review the adequacy and effectiveness of law and practice in the State relating to the protection of human rights and equality;

(c) either of its own volition or on being so requested by a Minister of the Government, to examine any legislative proposal and report its views on any implications for human rights or equality;

(d) either of its own volition or on being so requested by the Government, to make such recommendations to the Government as it deems appropriate in relation to the measures which the Commission considers should be taken to strengthen, protect and uphold human rights and equality in the State;

(e) to apply to F2**[**the High Court, the Court of Appeal or the Supreme Court**]** for liberty to appear before F2**[**the High Court, the Court of Appeal or the Supreme Court**]**, as amicus curiae in proceedings before that court that involve or are concerned with the human rights or equality rights of any person and to appear as such an amicus curiae on foot of such liberty being granted (which liberty each of the said courts is hereby empowered to grant in its absolute discretion);

(f) to provide such practical assistance, including legal assistance, to persons in vindicating their rights as it sees fit in accordance with *section 40*;

(g) where it sees fit, to institute proceedings under *section 41* or section 19 of the Act of 2003, as may be appropriate;

(h) to consult with such national, European Union or international bodies or agencies having a knowledge or expertise in the field of human rights or equality as it sees fit;

F3**[**(ha) without prejudice to the generality of *paragraph (b)* or *(h)*, to promote and monitor the implementation in the State of the Convention on the Rights of Persons with Disabilities done at New York on 13 December 2006;**]**

(i) to be the body designated for the purposes of Directive 2014/54/EU of the European Parliament and of the Council of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers[3];

F1**[**(ia) to be, and to carry out the tasks of, the national rapporteur referred to in Article 19 of Directive 2011/36/EU of the European Parliament and of the Council of 5 April 20112 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA;**]**

(j) to undertake, sponsor, commission or provide financial or other assistance for research and educational activities;

(k) to provide or assist in the provision of education and training on human rights and equality issues;

(l) either of its own volition or at the request of the Minister, to undertake, sponsor, commission, or provide financial or other assistance for programmes of activities and projects for the promotion of integration of migrants and other minorities, equality (including gender equality) and respect for diversity and cultural difference;

(m) to carry out equality reviews and prepare equality action plans or to invite others to do so, where appropriate, pursuant to *section 32*;

(n) to assist public bodies in accordance with *section 42*;

(o) to conduct inquiries under and in accordance with *section 35*;

(p) to prepare and publish, in such manner as it sees fit, reports including reports on any research undertaken, sponsored, commissioned or assisted by it under *paragraph (j)* or in relation to inquiries referred to in *paragraph (o)*;

(q) to participate in the Joint Committee with the Northern Ireland Human Rights Commission in accordance with the Multi-Party Agreement annexed to the British-Irish Agreement (within the meaning of the British-Irish Agreement Act 1999);

(r) to perform such other functions transferred to it under *section 44*.

(3) Without prejudice to the generality of *section 9(2)*, the Commission shall exercise its functions under this Act with a view to encouraging and supporting the development of a society in which—

(a) there is respect for, and protection of, each person's human rights,

(b) there is respect for the dignity and worth of each person,

[3] OJL 128/8, 30.4.2014

(c) a person's ability to achieve his or her potential is not limited by prejudice, discrimination, neglect or prohibited conduct,

(d) each person has a fair and equal opportunity to participate in the economic, political, social or cultural life of the State, and

(e) there is mutual respect between persons, including classes of persons, based on a shared understanding of the value of diversity within society and on a shared respect for equality and human rights.

(4) The Commission shall, in the exercise of its functions under *Part 3*, exercise those functions in a manner which it considers to be most appropriate and proportionate in the circumstances.

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

(6) The Commission may perform any of its functions through or by any member of the staff of the Commission duly authorised in that behalf by the Commission.

Conferral of additional functions on Commission

11. (1) The Minister may, with the consent of the Minister for Public Expenditure and Reform, and with the agreement of the Commission, confer on the Commission, by order, such additional functions connected with the functions for the time being of the Commission as he or she thinks fit, subject to such conditions (if any) as may be specified in the order.

(2) An order under this section may contain such incidental, supplemental and consequential provisions as may, in the opinion of the Minister, be necessary to give full effect to the order.

(3) Every order made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House sits after the order is laid before it, the order shall be annulled accordingly, without prejudice to the validity of anything previously done thereunder.

Membership of Commission

12. (1) The Commission shall consist of not more than 15 and not less than 12 members, one of whom shall be the Chief Commissioner of the Commission.

(2) Of the members of the Commission, not less than 6 of them shall be men and not less than 6 of them shall be women, and in a case where there are 14 or more members, not less than 7 of them shall be men and not less than 7 of them shall be women.

(3) Each member of the Commission shall be appointed by the President, in accordance with *section 13* , and shall hold office for such period not exceeding 5 years as the President, on the advice of the Government, may determine when appointing him or her.

(4) Each member of the Commission shall hold his or her office on such terms and conditions as are determined by the Government at the time of his or her appointment and shall, subject to *subsection (9)*, be eligible for re-appointment for a further term not exceeding 5 years.

(5) The Commission may act notwithstanding any vacancy among its members (including one or more vacancies that result in *subsection (1)* or *(2)* not being complied with).

(6) Of the persons who on establishment day are to comprise the members of the Commission—

(a) 7 such members shall be appointed for a term of 3 years, and

(b) 8 such members, including the Chief Commissioner, shall be appointed for a term of 5 years.

(7) A person who was appointed by the Government on 16 April 2013 to the Human Rights Commission may, on the establishment day, be appointed to be a member of the Commission.

(8) Subject to *subsection (9)*, a member of the Commission whose term of office expires with the passage of time shall be eligible for re-appointment to the Commission.

(9) A member of the Commission who has served 2 terms of office shall not be eligible for re-appointment to the Commission, and a period during which a person serves as a member of the Commission pursuant to an appointment under *section 15* shall be deemed for the purposes of this subsection to be a term of office.

(10) For the purposes of *subsection (9)*, one or more terms of office as a member of—

(a) the Human Rights Commission, or

(b) the Equality Authority, shall be deemed to be a term of office and shall be reckoned as one term of office only, however, where the term of office ends on or immediately before the establishment day, such term shall not be deemed to be a term of office and, accordingly shall not be reckoned for the purposes of the subsection.

(11) Notwithstanding the generality of *subsection (9)*, a person who has served 2 terms of office shall be eligible for re-appointment to the Commission after a period of 5 years has elapsed immediately following the expiry of the most recent term of office of the person as a member of the Commission.

Appointment of members of Commission

13. (1) A member of the Commission shall be appointed by the President—

(a) on the advice of the Government, and

(b) following the passing of a resolution of each House of the Oireachtas recommending the appointment.

(2) Where a vacancy arises, or is anticipated will arise, on the Commission, the Government shall, for the purposes of identifying persons and making recommendations to the Government in respect of those persons for appointment as members of the Commission, invite the Service to undertake a selection competition.

(3) The Service shall, subject to *subsection (4)*, appoint a selection panel.

(4) Of the members of the selection panel, one of them shall be nominated by the Director of the European Union Agency for Fundamental Rights.

(5) The Service shall appoint the members of the selection panel from amongst persons who, in the opinion of the Service, have relevant experience of, and expertise in relation to, matters connected with any or all of the following:

(a) human rights matters or law;

(b) equality matters or law;

(c) public sector administration and reform;

(d) board management and corporate governance.

(6) The Minister shall agree with the Service the selection criteria and process to be implemented in respect of the filling of any vacancy on the Commission.

(7) A vacancy on the Commission shall be advertised publicly and shall include details of the agreed selection criteria for the filling of the vacancy and the process to be implemented in respect of the filling of that vacancy.

(8) The Service may adopt such procedures as it thinks fit to carry out its functions under this section.

(9) A person shall not be recommended for appointment by the President under this section unless the person is, in the opinion of the Service and the Government agrees, suitably qualified for such appointment by reason of his or her possessing such relevant experience, training or expertise as is appropriate having regard in particular to the functions conferred on the Commission by or under this Act.

(10) The Service shall provide the Government with particulars of experience, training and expertise of the person whom it recommends under this section.

(11) Where the Service makes a recommendation for the appointment of a person to the Commission, the Government shall accept that recommendation.

(12) In exceptional circumstances, where the Government, for substantial and stated reasons, is unable to accept the recommendation by the Service of a particular person, it shall inform the Service of that fact and the reasons for it and shall request the Service to make another recommendation in respect of the vacancy and, the Service shall—

(a) consider the Government's reasons, and

(b) unless the Service disagrees with the reasons and wishes to make representations to the Government in that behalf, make another recommendation for appointment to the Commission.

(13) In making recommendations for appointment of persons to the Commission under this section, the Service, and the Government shall have regard to the need to ensure that the members of the Commission broadly reflect the nature of Irish society and that such persons possess knowledge of, or experience in—

(a) matters connected with human rights, and

(b) without prejudice to the generality of *paragraph (a)*,matters connected with persons or classes of persons who are disadvantaged by reference to the following factors:

(i) gender;

(ii) civil status;

(iii) family status;

(iv) sexual orientation;

(v) religious belief;

(vi) age;

(vii) disability;

(viii) race, including colour, nationality, ethnic or national origin;

(ix) membership of the Traveller community.

(14) In this section the factors specified in *subparagraphs (ii)*, *(iii)*, *(iv)*, *(v)*, *(vii)* and *(ix)* of *subsection (13)* have the meanings they have in section 2 of the Act of 1998.

Conditions of office of membership of Commission

14. (1) A member of the Commission may resign from office by notice in writing given to the President and the resignation shall take effect on the day on which the President receives the notice.

(2) The Government may remove a member of the Commission from office, but only on one or more of the following grounds:

(a) the member has, without reasonable excuse, failed to discharge his or her functions for a continuous period of not less than 3 months prior to the date of the dismissal beginning not earlier than 6 months before the date of dismissal;

(b) the member has become incapable through ill health of performing his or her functions or has committed stated misbehaviour;

and then, and only then, where a resolution is passed by both Houses of the Oireachtas calling for the member's removal.

(3) A member of the Commission shall cease to be qualified for office and shall cease to hold office if he or she—

(a) is an undischarged bankrupt, or

(b) is convicted of a criminal offence.

(4) A member of the Commission shall, subject to the provisions of this Act, hold office on such terms and conditions as are determined by the Government at the time of his or her appointment.

Casual vacancies

15. (1) If a member of the Commission dies, resigns, ceases to be qualified for office and ceases to hold office or is removed from office, the President may appoint a person to be a member of the Commission to fill the casual vacancy so occasioned in the same manner as the member of the Commission who occasioned the casual vacancy was appointed.

(2) *Sections 12(4)* and *13* shall, with any necessary modifications, apply to the appointment of a person to be a member of the Commission under this section as it applies to the appointment of a person to be a member of the Commission under that section.

Meetings and procedure

16. (1) The Commission shall hold such and so many meetings as may be necessary for the due fulfilment of its functions but in each year shall hold not less than one meeting in each period of 3 months.

(2) At a meeting of the Commission—

(a) the Chief Commissioner shall, if present, be the chairperson of the meeting, or

(b) if and so long as the Chief Commissioner is not present, or if the office of Chief Commissioner is vacant, the members of the Commission who are present shall choose one of the number to act as the chairperson of the meeting.

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

(4) The quorum for a meeting of the Commission shall be 5 or such other number, not being less than 5 as the Commission may determine.

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

Membership of Management Board of European Union Agency for Fundamental Rights

17. (1) The Commission shall appoint from amongst its membership a person to be a member of the Management Board of the European Union Agency for Fundamental Rights.

(2) In this section, "Management Board" has the meaning it has in Council Regulation 168/2007.

Advisory committees, etc.

18. (1) The Commission shall, for the purpose of establishing and maintaining effective co-operation with representatives of relevant agencies and civil society—

(a) appoint such and so many advisory committees as it thinks fit to assist and advise it on matters relating to its F4**[**functions,**]**

F5**[**(aa) without prejudice to the generality of *paragraph (a)*, appoint an advisory committee to assist and advise it on matters relating to its functions under *section 10(2)(ha)*, and**]**

(b) support, establish or participate in such networks, public consultation processes or public forums, as it sees appropriate.

(2) An advisory committee shall be appointed by the Commission for such period and subject to such terms of reference as the Commission thinks appropriate.

(3) An advisory committee shall consist of—

(a) a presiding member who shall be a member of the Commission,

(b) a vice presiding member (who shall act in the absence of the presiding member and who shall be a member of the Commission), and

(c) such number of other members including (if the Commission considers it appropriate), persons who are not members of the Commission or its staff,

as the Commission may determine and duly appoint.

F5**[**(3A) In the case of an advisory committee referred to in *subsection (1)(aa)*, at least two-thirds of the number of persons appointed under *subsection (3)* shall have, or have had, a disability within the meaning of section 2(1) of the Disability Act 2005.**]**

(4) Each member of an advisory committee shall be paid out of moneys at the disposal of the Commission such allowance for expenses incurred by the member as the Minister, with the consent of the Minister for Public Expenditure and Reform, may sanction.

(5) A member of an advisory committee may be removed at any time from membership of the committee by the Commission.

(6) The Commission may at any time dissolve an advisory committee.

(7) The Commission may regulate the procedure and business of an advisory committee but, subject to the foregoing, a committee may regulate its own procedures and business.

(8) An advisory committee may act notwithstanding one or more vacancies in its membership.

Membership of either House of Oireachtas or European Parliament

19. (1) Where a member of the Commission 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, or

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

he or she shall thereupon cease to be a member of the Commission.

(2) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament shall, while he or she is so entitled or is such a member, be disqualified for membership of the Commission or for employment in any capacity by the Commission.

Director

20. (1) There shall be a Director of the Commission (in this Act referred to as the "Director").

(2) The Director may be removed from office by the Commission for stated reasons.

(3) The Director shall hold office under a written contract of service (which contract may, at the discretion of the Commission, be renewed) for such period as is specified in the contract and subject to such terms and conditions (including terms and conditions relating to remuneration, allowances and superannuation) as are so specified, as may be determined

by the Commission with the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform.

(4) The Commission may designate a person to be appointed the first Director.

(5) If immediately before the establishment day, a person stands designated by the Commission under *subsection (4)*, the person shall on the establishment day stand appointed as the first Director.

(6) The Director shall not hold any other office or occupy any other position in respect of which emoluments are payable or carry on any business without the consent of the Commission.

(7) The Director shall not be a member of the Commission or an advisory committee but he or she may attend meetings of the Commission or an advisory committee and shall be entitled to speak at and advise such meetings.

Functions of Director

21. (1) The Director shall carry on and manage, and control generally, the administration of the Commission and perform such other functions (if any) as may be determined by the Commission.

(2) The Director shall perform his or her functions subject to such policies as may be determined by the Commission, and shall be accountable to the Commission for the efficient and effective management of the Commission and for the due performance of his or her functions.

(3) The Director shall provide to the Commission such information in relation to the performance of his or her functions (including information with respect of the performance of those functions in so far as they relate to the financial affairs of the Commission) as the Commission may require.

(4) The Director may make proposals to the Commission on any matter relating to its functions.

(5) The Director shall be the accounting officer in relation to the appropriation accounts of the Commission for the purposes of the Comptroller and Auditor General Acts 1866 to 1998.

(6) The Director may, with the consent of the Commission, authorise one or more members of staff of the Commission to perform a specified function of the Director and such member or members so authorised may perform the function accordingly.

(7) The Commission may designate a member of the staff of the Commission 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.

Accountability of Director to Public Accounts Committee

22. (1) The Director shall, whenever required in writing to do so by 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 (in this section referred to as the "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 subject to audit

by the Comptroller and Auditor General that the Commission is required by this Act to prepare,

(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 it relates to a matter specified in *paragraph (a)*, *(b)*, or *(c)*) that is laid before Dáil Éireann.

(2) In the performance of his or her duties under this section, the Director shall not question or express an opinion on the merits of any policy of the Government or any Minister of the Government or on the merits of the objectives of such a policy.

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 Committee referred to in *section 22* or a 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 for any matter which is or has been or may be at a future date, the subject of proceedings before a court or tribunal in the State.

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

(5) Where the Director has informed a Committee of this 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 the subject matter 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 summary manner for determination of the question whether the matter is one to which *subsection (3)* 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 that is the subject of the application.

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

Staff of Commission

24. (1) The Commission may, with the consent of the Minister given with the approval of the Minister for Public Expenditure and Reform, appoint such and so many persons to be members of the staff of the Commission as it may determine.

(2) The terms and conditions of service of a member of the staff of the Commission and the grade at which he or she serves shall be such as may be determined by the Commission with the consent of the Minister and the Minister for Public Expenditure and Reform.

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

(4) The Commission shall be the appropriate authority (within the meaning of the Civil Service Commissioners Act 1956 and the Civil Service Regulation Acts 1956 to 2005) in relation to its officers.

(5) The Commission may, with the consent of the Minister, given with the approval of the Minister for Public Expenditure and Reform, make arrangements with—

(a) a public body, or

(b) any other person, organisation, group or body, including a company or charitable body, for the engagement with the Commission on a temporary basis a person in the service of, or employed by, as the case may be, that public body or person, organisation, group or body referred to in *paragraph (b)* for such period of time and on such terms and conditions as may be agreed by the Minister, with the consent of the Minister for Public Expenditure and Reform.

(6) A person who is engaged on a temporary basis with the Commission pursuant to *subsection (5)* shall be under the direction and control of the Commission during the period of temporary engagement.

Strategy statement

25. (1) The Commission shall—

(a) not later than 6 months after the commencement of this section, prepare a strategy statement in respect of the 3 years immediately following the year in which the strategy statement is so submitted, and

(b) not later than 3 months before each third anniversary of the preparation in accordance with this subsection of the strategy statement for the time being in effect, prepare a strategy statement in respect of the period of 3 years immediately following the year in which the strategy statement is so prepared.

(2) A strategy statement shall—

(a) comprise—

(i) the key objectives and related strategies, including the use of resources of the Commission, and

(ii) having had regard to sub*paragraph (i)*, the key priorities and objectives of the Chief Commissioner for his or her term of office, and

(b) have regard to the need to ensure the most beneficial, effective and efficient use of the resources of the Commission.

(3) The Commission shall, in preparing a strategy statement, consult in such manner as the Commission considers appropriate with such bodies and groups as it sees fit including but not limited to educational institutions, representatives of relevant agencies and civil society, Departments of State and other public bodies.

(4) The Commission shall as soon as may be after the preparation of a strategy statement under *subsection (1)* cause copies of it to be laid before each House of the Oireachtas.

(5) The Commission shall ensure that, as soon as practicable after copies of a strategy statement are laid before both Houses of the Oireachtas in accordance with *subsection (4)*, the strategy statement is published in such manner as the Commission considers appropriate.

Grants to Commission

26. In each financial year, the Minister may, after consultation with the Commission, advance to the Commission out of moneys provided by the Oireachtas such sums as appear to the Minister, with the consent of the Minister for Public Expenditure and Reform, to be reasonably sufficient for the purposes of expenditure by the Commission in the performance of its functions.

Accounts of Commission

27. (1) The Commission shall keep in such form as may be approved by the Minister with the consent of the Minister for Public Expenditure and Reform all proper and usual accounts of all money received or expended by it and, in particular, shall keep in such form as aforesaid all such special accounts as the Minister, with the consent of the Minister for Public Expenditure and Reform, may direct.

(2) Accounts kept in accordance with this section shall be submitted, 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, after consultation with the Minister for Public Expenditure and Reform, may direct to the Comptroller and Auditor General for audit and, immediately after the audit, a copy of the Comptroller and Auditor General's report on the accounts shall be presented to the Minister who shall, as soon as may be after they are so presented, cause copies thereof to be laid before each House of the Oireachtas.

Annual report

28. (1) The Commission shall not later than 6 months after the end of each financial year of the Commission prepare a report on its activities during that year, and the Commission shall as soon as may be after preparing the report, cause copies to be laid before each House of the Oireachtas.

(2) A report under *subsection (1)* shall include information on the performance of the functions of the Commission during the period to which the report relates and without prejudice to the generality of the foregoing, shall include—

(a) an account of—

(i) any equality review carried out,

(ii) any action plan prepared,

(iii) any inquiry conducted, and

(iv) the performance of its functions under *section 42* and any review carried out by it under *subsection (7)* of that section,

in that period,

(b) an account of its activities and any developments undertaken by the Commission in relation to the operation of the Employment Equality Acts 1998 to 2011 in the period, and

(c) such other information in such form as the Commission thinks fit or the Minister may request.

(3) The Commission shall ensure that, as soon as practicable after copies of an annual report are laid before both Houses of the Oireachtas in accordance with *subsection (1)*, the annual report is published in such manner as the Commission considers appropriate.

PART 3

Enforcement and Compliance

Definitions for purposes of this Part

29. In this Part—

"equality clause" has the meaning it has in the Act of 1998;

"equality action plan" means a programme of actions that is prepared by an undertaking or, as the case may be, by the Commission, to be implemented in the undertaking to further the promotion of equality of opportunity therein;

"equality and human rights compliance notice" means a notice under *section 36* (or where such notice is appealed, the notice as confirmed (with or without amendment) by the Labour Court or the District Court, or the Circuit Court as may be appropriate);

"equal remuneration term" has the meaning it has in the Act of 1998;

"equality review" means—

(a) an audit of the level of equality of opportunity which exists in a particular undertaking, group of undertakings or the undertakings making up a particular industry or sector thereof, and

(b) an examination of the practices of, procedures in, and other relevant factors (including the working environment) material to that undertaking or those undertakings to determine whether those practices, procedures or other relevant factors are conducive to the promotion of equality of opportunity in that undertaking;

"group of undertakings" includes a group of undertakings so defined by reference to any number of relevant factors including geographical location or control;

"human rights" means—

(a) the rights, liberties and freedoms conferred on, or guaranteed to, persons by the Constitution,

(b) the rights, liberties or freedoms conferred on, or guaranteed to, persons by any agreement, treaty or convention to which the State is a party and which has been given the force of law in the State or by a provision of any such agreement, treaty or convention which has been given such force, and

(c) the rights, liberties and freedoms conferred on, or guaranteed to, persons by the Convention provisions within the meaning of the European Convention on Human Rights Act 2003;

"substantive notice" means a notice under *section 33(1)* or *(2)* (or where such notice is appealed, the notice as confirmed (with or without amendment) by the Labour Court or the District Court, or the Circuit Court, as may be appropriate);

"undertaking" includes—

(a) an activity giving rise to employment, whether or not in the industrial or commercial sector and whether or not with a view to profit, and

(b) subject to *subparagraph (ii)*, the provision of services by the provider of a service within the meaning of section 4(6) of the Act of 2000 and accordingly this Part shall apply in relation to the provision of such services with the modifications that—

(i) the reference in *paragraph (a)* of the definition of "equality review" to a particular undertaking shall include a reference to the provision of particular services, and

(ii) the references in *section 32(2)* to an undertaking shall include a reference to a provider of a service (within the meaning of the said section 4(6) other than paragraph (f) thereof),

and any other necessary modifications.

Provision of information to public, review of operation of certain enactments, etc.

30. (1) The Commission shall—

(a) provide information to the public and keep under review the effectiveness of any enactments relating to the protection and promotion of human rights and equality, and

(b) without prejudice to the generality of *paragraph (a)*, provide information to the public and keep under review the effectiveness of the working of—

(i) the Employment Equality Acts 1998 to 2011,

(ii) the Equal Status Acts 2000 to 2012, and

(iii) section 19 of the Act of 2003, and, whenever it thinks necessary, make proposals to the Minister for amending any of the enactments referred to in *paragraphs (a)*and *(b)*.

(2) The Commission may, if it thinks fit, and shall, if requested by the Minister, carry out a review of the working or effect of any enactment referred to

in *subsection (1)* and may make such recommendations as it sees fit following such review.

(3) The Commission shall keep under review the working of the Pensions Act 1990in so far as it relates to the principle of equal treatment and may, whenever it thinks necessary, make recommendations to the Minister for Social Protection in relation to that Act.

(4) Where in the opinion of the Commission the working or effect of any of the enactments for the time being specified in subsections (1) to (4) of section 17 of the Act of 1998 or of any provision contained in or made under any such enactments is likely to affect or impede the elimination of discrimination in relation to employment or the promotion of equality of opportunity in relation to employment—

(a) between men and women, or

(b) between persons who differ in terms of any of the other discriminatory grounds,

the Commission may, if it thinks fit, and shall if so requested by the Minister carry out a review of the enactment concerned or a provision of it or of its working or effect.

(5) For the purposes of assisting it in carrying out a review under this section, the Commission shall consult such persons, groups and organisations (including organisations of trades unions and of employers) as it considers appropriate.

(6) Where the Commission carries out a review under this section, it—

(a) may, or

(b) shall—

(i) where the Minister has requested the review, or

(ii) where the Minister for Social Protection has requested the review pursuant to *subsection (3)*, make a report of the review to the Minister.

(7) A report under *subsection (6)* may include such recommendations (including recommendations for the amendment of any enactment or any provision of it that is the subject of the review) as the Commission considers necessary.

Codes of practice

31. (1) The Commission may, and shall, if so requested by the Minister, prepare for submission to the Minister draft codes of practice in furtherance of one or more of the following aims:

(a) the protection of human rights;

(b) the elimination of discrimination;

(c) the promotion of equality of opportunity in employment;

(d) the promotion of equality of opportunity in relation to those matters to which the Act of 2000 applies.

(2) Before submitting a draft code of practice to the Minister under *subsection (1)*, the Commission shall consult with such other Minister of the

Government or such other person or body as the Commission considers appropriate, or as the Minister may recommend.

(3) After a draft code of practice has been submitted under *subsection (1)*, the Minister may by order declare that the draft code—

(a) is an approved code of practice for the purposes of this Act, or

(b) as amended by the Minister after consultation with the Commission, is an approved code of practice for the purposes of this Act,

and an order under this subsection shall set out the text of the approved code to which the order relates.

(4) A code of practice under section 56 of the Act of 1998 in operation immediately before the commencement of this section shall—

(a) remain in operation after such commencement, and

(b) be deemed to be an approved code of practice for the purposes of this section, and may be amended or revoked by order of the Minister.

(5) A code of practice standing approved under this section (including a code of practice to which *subsection (4)* applies) shall be admissible in evidence—

(a) in proceedings before a court, or

(b) in the case of proceedings under Part VII of the Act of 1998 or Part III of the Act of 2000, before the Labour Court, the Labour Relations Commission, the Employment Appeals Tribunal, the Director of the Equality Tribunal, or a rights commissioner.

Equality reviews and equality action plans

32. (1) The Commission may invite a particular undertaking, group of undertakings or the undertakings making up a particular industry or sector thereof to—

(a) carry out an equality review in relation to that undertaking or those undertakings, or

(b) prepare and implement an equality action plan in respect of that undertaking or those undertakings,

or both.

(2) The Commission may, if it thinks it appropriate, itself—

(a) carry out an equality review, or

(b) prepare an equality action plan,

in relation to any undertaking of 50 or more employees or group of such undertakings or such undertakings making up a particular industry or a sector thereof.

(3) An equality review or equality action plan may relate to—

(a) equality of opportunity generally, or

(b) a particular aspect of discrimination,

within an undertaking or group of undertakings or undertakings making up a particular industry or a sector thereof.

(4) Where an equality review or equality action plan relates to matters that are covered by both—

(a) the Act of 1998, and

(b) the Act of 2000,

the review or the action plan, as the case may be, shall deal separately with those matters and each part of the review or plan, as the case may be, shall be treated as a separate equality review plan or equality action plan, as the case may be.

F6**[**(5) Arising out of the operation of section 20A of the Employment Equality Act 1998 as read with regulations made thereunder, the Minister may request the Commission to consider exercising its powers under this section in relation to a particular undertaking, group of undertakings or the undertakings making up a particular industry or sector thereof and the Commission shall comply with such request.**]**

Substantive notices

33. (1) Without prejudice to the generality of *section 32*, where the Commission considers it appropriate to do so for the purposes of an equality review or preparing an equality action plan in respect of an undertaking under *section 32*, the Commission may serve a substantive notice on a person—

(a) requiring any person so served to supply to the Commission such information as may reasonably be required by the Commission as is specified in the notice,

(b) requiring any person so served to produce or send to the Commission such document as is specified in the notice and is within his or her possession or control,

however, nothing in this subsection shall be construed to entitle the Commission to require information or documentation relating to an undertaking with fewer than 50 employees.

(2) If it appears to the Commission that there is a failure in any undertaking or undertakings to implement any provision of an equality action plan (irrespective of whether the plan is prepared by the Commission or by the undertaking itself), the Commission may serve a substantive notice on a person requiring any person so served to take such action as—

(a) is specified in the notice,

(b) is reasonably required for the implementation of the plan, and

(c) is within that person's power to take.

(3) Before serving a substantive notice on a person under *subsection (1)* or *(2)*, the Commission shall notify the person in writing of the proposal to serve the substantive notice and the proposed contents of that notice.

(4) A person who is notified under *subsection (3)* may, within 42 days of the receipt of the notification, make representations to the Commission about the proposed substantive notice.

(5) The Commission shall have regard to any representations made to it under *subsection (4)* in assessing whether to proceed with the service of the substantive notice.

(6) A substantive notice shall, unless an appeal is brought under *section 34*, come into operation on the expiry of 56 days from the service of the substantive notice.

(7) A person who fails to comply with a substantive notice shall be guilty of an offence and shall be liable on summary conviction to a class C fine or imprisonment for a term not exceeding 1 year or both.

Appeal of substantive notice

34. (1) A person on whom a substantive notice has been served may within 42 days of service of the notice appeal to—

(a) the Labour Court, or

(b) in the case of a notice that concerns an equality review or an equality action plan or a proposed review or plan which relates to matters to which the Act of 2000 applies, the District Court,

in respect of the notice or any requirement therein.

(2) Where an appeal is brought under this section, the Labour Court, or the District Court, as the case may be, may—

(a) confirm the notice in whole or in part (with or without amendment of that notice), or

(b) allow the appeal.

(3) Where the Labour Court or the District Court, as the case may be, allows the appeal, the substantive notice shall cease to have effect.

(4) Where the Labour Court, or the District Court, as the case may be, confirms a substantive notice, the notice as so confirmed, shall unless an appeal is brought under *subsection (5)* come into operation on the expiry of 56 days of the date of confirmation or such later date as the Court may determine.

(5) A person may within 42 days appeal a confirmation of a substantive notice by the Labour Court or the District Court, as the case may be, to the Circuit Court.

(6) Where the Circuit Court allows the appeal, the substantive notice shall cease to have effect.

(7) Where the Circuit Court confirms the substantive notice (in whole or in part, with or without amendment), the notice as so confirmed shall come into operation on such date as the Circuit Court shall determine.

(8) Any of the parties concerned may appeal a determination of the Circuit Court to the High Court on a point of law and the determination of the High Court on such an appeal in respect of the point of law shall be final and conclusive.

(9) The jurisdiction conferred on the District Court or the Circuit Court, as the case may be, under this section shall be exercised by a judge of that court for the time being assigned to the district court district or circuit, as the case may be, in which the person on whom the substantive notice is served ordinarily resides or carries on any profession, business or occupation.

Inquiries

35. (1) The Commission, either of its own volition or if requested by the Minister, may conduct an inquiry if it is considered by the Commission that—

(a) there is, in any body (whether public or otherwise) institution, sector of society, or geographical area, evidence of—

(i) a serious violation of human rights or equality of treatment obligations in respect of a person or a class of persons, or

(ii) a systemic failure to comply with human rights or equality of treatment obligations,

and

(b) the matter is of grave public concern, and

(c) it is in the circumstances necessary and appropriate so to do.

(2) An inquiry may be undertaken by one or more than one member of the Commission.

(3) Before conducting an inquiry under this section, the Commission shall, as soon as may be, prepare terms of reference for the inquiry and an outline of the procedures to be followed for the inquiry.

(4) The Commission shall arrange for a copy of the terms of reference and outline of procedures referred to in *subsection (3)* to be laid before each House of the Oireachtas.

(5) As soon as may be after the terms and outline of the procedures concerned are laid in accordance with *subsection (4)* the Commission shall arrange for a notice of those terms and that outline to be published—

(a) in at least one newspaper circulating in the State, and

(b) in such other manner as the Commission considers appropriate.

(6) In conducting an inquiry the Commission shall to the greatest possible extent consistent with its duties under this Act—

(a) seek the voluntary co-operation of persons whose evidence is desired for the purposes of the inquiry, and

(b) facilitate such co-operation.

(7) The Commission shall conduct its inquiry as expeditiously as is consistent with its duties under this Act.

(8) The provisions of *Schedule 2* shall have effect in relation to inquiries undertaken by the Commission.

Equality and human rights compliance notices

36. (1) Where in the course of an inquiry or after such inquiry has been conducted, the Commission is satisfied that any person—

(a) has discriminated or is discriminating,

(b) has contravened or is contravening section 8(4) or 10(1) of the Act of 1998 or section 12(1) of the Act of 2000,

(c) has failed or is failing to comply with an equality clause or an equal remuneration term, or

(d) has violated or is violating human rights,

the Commission may serve an equality and human rights compliance notice on the person.

(2) Before serving an equality and human rights compliance notice on a person under *subsection (1)*, the Commission shall give the person notice (in this section referred to as "advance notice") of the proposal to serve the equality and human rights compliance notice and the advance notice shall—

(a) specify the act or omission constituting the discrimination, contravention, failure or violation referred to in *subsection (1)* to which the notice relates, and

(b) inform the person that he or she may make representations to the Commission in accordance with *subsection (3)*.

(3) A person who is served with an advance notice may, within 42 days of the receipt of the notice, make representations to the Commission about the proposed equality and human rights compliance notice.

(4) The Commission shall have regard to any representations made to it under *subsection (3)* in assessing whether to proceed with the service of the equality and human rights compliance notice.

(5) An equality and human rights compliance notice shall—

(a) specify the act or omission constituting the discrimination, contravention, failure or violation referred to in *subsection (1)* to which the notice relates,

(b) require the person on whom it is served not to commit or to cease committing, as the case may be, the act or omission concerned or where appropriate, to comply with the equality clause or equal remuneration term,

(c) specify, in the case of discrimination, what steps the Commission requires to be taken by the person on whom it is served,

(d) require the person on whom it is served, within the period specified in the notice to inform the Commission and any other persons so specified of the steps taken in order to comply with the notice,

(e) require the person on whom it is served to supply, within the period specified in the notice, such additional information as may be specified in the notice.

(6) An equality and human rights compliance notice shall, unless an appeal is brought under *section 37*, come into operation on the expiry of 56 days from the service of the notice.

(7) Where a person on whom an equality and human rights compliance notice has been served fails to comply with the notice at any time within a period of 5 years from the date on which the notice comes into operation, he or she shall be guilty of an offence and shall be liable on summary conviction to a class C fine or imprisonment for a term not exceeding 1 year or both.

Appeal of equality and human rights compliance notice

37. (1) A person on whom an equality and human rights compliance notice has been served may within 42 days of service of the notice appeal to—

(a) the Labour Court, or

(b) in the case of a notice that relates to prohibited conduct, a contravention of section 12(1) of the Act of 2000 or a matter to which *section 36(1)(d)*refers, the District Court,

in respect of the notice or any requirement therein.

(2) Where an appeal is brought under this section, the Labour Court, or the District Court, as the case may be, may—

(a) confirm the notice in whole or in part, with or without amendment of that notice, or

(b) allow the appeal.

(3) Where the Labour Court or the District Court, as the case may be, allows the appeal, the equality and human rights compliance notice shall cease to have effect.

(4) Where the Labour Court, or the District Court, as the case may be, confirms an equality and human rights compliance notice, the notice as so confirmed, shall unless an appeal is brought under *subsection (5)* come into operation on the expiry of 56 days of the date of confirmation or such later date as the Court may determine.

(5) A person may within 42 days appeal a confirmation of an equality and human rights compliance notice by the Labour Court or the District Court, as the case may be, to the Circuit Court.

(6) Where the Circuit Court allows the appeal, the equality and human rights compliance notice shall cease to have effect.

(7) Where the Circuit Court confirms the equality and human rights compliance notice (in whole or in part, with or without amendment), the notice as so confirmed shall come into operation on such date as the Circuit Court shall determine.

(8) Any of the parties concerned may appeal a determination of the Circuit Court to the High Court on a point of law and the determination of the High Court on such an appeal in respect of the point of law shall be final and conclusive.

(9) The jurisdiction conferred on the District Court or the Circuit Court, as the case may be, under this section shall be exercised by a judge of that court for the time being assigned to the district court district or circuit, as the case may be, in which the person on whom the equality and human rights compliance notice is served ordinarily resides or carries on any profession, business or occupation.

Register of equality and human rights compliance notices

38. (1) The Commission shall establish and maintain a register of equality and human rights compliance notices for the time being in operation (in this Act referred to as the "register").

(2) As soon as may be after an equality and human rights compliance notice has come into operation, the Commission shall cause the notice to be entered on the register.

(3) Subject to *subsection (4)*, an equality and human rights compliance notice shall be removed from the register after the expiry of 5 years from the date on which the notice came into operation.

(4) A person who is the subject of an equality and compliance notice may at any time before the expiry of the period referred to in *subsection (3)* apply to the Commission to have the notice concerned removed from the register and the Commission may, if it considers it appropriate to do, so remove the notice.

(5) An appeal shall lie to the District Court from a refusal by the Commission to remove an equality and human rights compliance notice.

(6) The register shall be made available for inspection by members of the public at all reasonable times at the principal office of the Commission.

(7) The jurisdiction conferred on the District Court under this section shall be exercised by a judge of that court for the time being assigned to the district court district in which the person on whom the equality and human rights compliance notice is served ordinarily resides or carries on any profession, business or occupation.

Injunctions for failure to comply with equality and human rights compliance application notice

39. (1) Subject to *subsection (2)*, the Circuit Court may, on the application of the Commission, grant an injunction to prevent discrimination, contravention, failure or violation referred to in *section 36(1)* by a person specified in the order of the court concerned of a type so specified.

(2) *Subsection (1)* applies to a case where, in the period of 5 years beginning on the date on which a notice came into operation, the Commission satisfies the Circuit Court that there is a likelihood of a further discrimination, contravention, failure or violation referred to in *section 36(1)* by the person on whom the notice was served.

(3) The jurisdiction conferred on the Circuit Court by this section shall be exercised by the judge for the time being assigned to the circuit where the person on whom the notice was served ordinarily resides or carries on any profession, business or occupation.

Legal and other assistance

40. (1) This section applies to the following (in this section referred to as "proceedings"):

(a) legal proceedings involving law or practice relating to the protection of human rights which a person has instituted or wishes to institute;

(b) legal proceedings in the course of which a person relies on or wishes to rely on such law or practice;

(c) the making of a reference or application under—

(i) this Part,

(ii) Part III of the Act of 2000,

(iii) Part VII of the Act of 1998,

(iv) section 19 of the Act of 2003, or

(v) any legal proceedings resulting from or arising out of a reference or application referred to in *subparagraphs (i)*, *(ii)*, *(iii)* or *(iv)*,

in circumstances where a person considers that a club referred to in section 8 of the Act of 2000 is a discriminating club within the meaning of that

section, or discrimination has been directed against him or her by another person, or that he or she has been adversely affected by the failure or refusal by another person—

(I) to comply with an equality clause or an equal remuneration term,

(II) to implement a decision, order or determination under this Part or Part III of the Act of 2000, or

(III) to implement a mediated settlement under section 78 of the Act of 1998 or section 24 of the Act of 2000.

(2) A person (in this section referred to as the "applicant") may apply to the Commission for assistance in relation to proceedings to which this section applies.

(3) Where an applicant applies to the Commission for assistance, the Commission may decide to grant to the applicant such assistance as is appropriate on any of the criteria specified in *subsection (4)* but before making a decision in that regard, the Commission shall consider whether—

(a) the assistance sought could be obtained by the applicant—

(i) under the Civil Legal Aid Act 1995,

(ii) under the Criminal Justice (Legal Aid) Act 1962, or

(iii) by any other means, whether or not provided for by or under any enactment,

or

(b) powers to award redress or grant relief in relation to the matter to which the proceedings relate stand vested in any tribunal or other person and the matter could, in the opinion of the Commission, be more effectively or conveniently dealt with by that tribunal or other person.

(4) Each of the following criteria is specified for the purposes of *subsection (3)*:

(a) the matter to which the proceedings concerned relate raises a question of principle;

(b) it would be unreasonable to expect the person to deal with the matter to which the proceedings concerned relate without assistance because of its complexity or for any other reason;

(c) there are other special circumstances which make it appropriate for the Commission to grant such assistance.

(5) Any arrangements made by the Commission under this section for the provision of legal advice to, or representation for, the applicant may include provision for the recovery of expenses incurred by or on behalf of the Commission in that behalf from the applicant in specified circumstances.

(6) The relationship between a solicitor employed by the Commission or any barrister retained by him or her and a person granted assistance under this section shall be the same as the relationship between a solicitor or barrister and a client who is not such a person.

(7) *Subsection (6)* is without prejudice to the rights and responsibilities of the Commission and the obligations arising out of the relationship between the Commission and the solicitors employed by it.

(8) For the avoidance of doubt, it is declared that sections 59 and 64 of the Solicitors Act 1954 do not apply in relation to the provision by a solicitor employed by the Commission of assistance under this section.

(9) The powers conferred on the Commission under this section are in addition to and not in substitution for any other power of the Commission to institute proceedings, refer any matter or make any application by or under this Act, the Act of 1998, the Act of 2000 or any other enactment.

(10) In this section—

"assistance" means any or all of the following:

(a) the provision, or the arranging for the provision of, legal advice to the applicant;

(b) the provision, or the arranging for the provision of, legal representation to the applicant;

(c) the provision of such other assistance to the applicant as the Commission deems appropriate in the circumstances;

"person requesting assistance" includes a person to whom assistance is being, or has been, provided under this section;

"relationship" includes rights and privileges arising from the relationship.

Institution of legal proceedings by Commission

41. (1) The Commission may institute proceedings in any court of competent jurisdiction for the purpose of obtaining relief of a declaratory or other nature in respect of any matter concerning the human rights of any person or class of persons.

(2) The declaratory relief the Commission may seek to obtain in such proceedings includes relief by way of a declaration that an enactment or a provision thereof is invalid having regard to the provisions of the Constitution or was not continued in force by Article 50 of the Constitution.

Public bodies

42. (1) A public body shall, in the performance of its functions, have regard to the need to—

(a) eliminate discrimination,

(b) promote equality of opportunity and treatment of its staff and the persons to whom it provides services, and

(c) protect the human rights of its members, staff and the persons to whom it provides services.

(2) For the purposes of giving effect to *subsection (1)*, a public body shall, having regard to the functions and purpose of the body and to its size and the resources available to it—

(a) set out in a manner that is accessible to the public in its strategic plan (howsoever described) an assessment of the human rights and equality issues it believes to be relevant to the functions and purpose of the body and the policies, plans and actions in place or proposed to be put in place to address those issues, and

(b) report in a manner that is accessible to the public on developments and achievements in that regard in its annual report (howsoever described).

(3) In assisting public bodies to perform their functions in a manner consistent with *subsection (1)*, the Commission may give guidance to and encourage public bodies in developing policies of, and exercising, good practice and operational standards in relation to, human rights and equality.

(4) Without prejudice to the generality of *subsection (3)*, the Commission may—

(a) issue guidelines, or

(b) prepare codes of practice in accordance with *section 31*,

in respect of the development by public bodies of performance measures, operational standards and written preventative strategies for the purpose of reducing discrimination and promoting human rights and equality in the public sector workplace and in the provision of services to the public.

(5) Where the Commission considers that there is evidence of a failure by a public body to perform its functions in a manner consistent with *subsection (1)* and that it is appropriate in all the circumstances to do so, the Commission may invite the public body to—

(a) carry out a review in relation to the performance by that body of its functions having regard to *subsection (1)*, or

(b) prepare and implement an action plan in relation to the performance by that body of its functions having regard to *subsection (1)*, or both.

(6) A review or an action plan under *subsection (5)* may relate to—

(a) equality of opportunity or human rights generally, or

(b) a particular aspect of human rights or discrimination, in the public body concerned.

(7) The Commission may, and, if requested by the Minister, shall, review the operation of *subsection (1)*.

(8) For the purposes of assisting it in carrying out a review under *subsection (7)*, the Commission shall consult such persons or bodies as it considers appropriate.

(9) Where the Commission carries out a review under *subsection (7)* it—

(a) may, or

(b) where the Minister has requested the review, shall,

make a report of the review to the Minister and any such report shall include such recommendations as the Commission thinks appropriate.

(10) The Commission shall cause a copy of the report to be laid before each House of the Oireachtas.

(11) Nothing in this section shall of itself operate to confer a cause of action on any person against a public body in respect of the performance by it of its functions under *subsection (1)*.

PART 4

Dissolved Bodies

Dissolution of bodies

43. (1) Each of the following bodies is dissolved:

(a) the Human Rights Commission;

(b) the Equality Authority,

and each of those bodies shall be referred to in this Act as a "dissolved body".

(2) This section shall come into operation on the establishment day.

Transfer of functions to Commission

44. (1) All functions that, immediately before the establishment day, were vested in a dissolved body are transferred to the Commission.

(2) References in any enactment or instrument under an enactment to the Human Rights Commission or the Equality Authority, as the case may be (howsoever described) shall be construed as references to the Commission save where other provision is made as respects the construction of the first-mentioned references by any enactment passed before the passing of this Act.

(3) This section shall come into operation on the establishment day.

Transfer of staff

45. (1) Every person who immediately before the establishment day was a member of the staff of a dissolved body shall on the establishment day be a member of staff of the Commission and shall hold or continue to hold, as the case may, be a position in the Civil Service of the State.

(2) Save in accordance with a collective agreement negotiated with any recognised trade union or staff association, a person referred to in *subsection (1)* shall not on the establishment day be brought to less favourable terms and conditions than the terms and conditions of service relating to remuneration to which the person was subject immediately before that day.

(3) The terms and conditions to which a person is subject upon his or her becoming a member of the staff of the Commission in accordance with *subsection (1)* shall be deemed to have been determined by the Commission in accordance with *section 24(2)*.

(4) In relation to persons transferred to the staff of the Commission under *subsection (1)*, previous service with the dissolved body concerned shall be reckonable for the purposes of, but subject to any exclusions in, the Redundancy Payments Acts 1967 to 2012, the Protection of Employees (Part-Time Work) Act 2001, the Organisation of Working Time Act 1997, the Minimum Notice and Terms of Employment Acts 1973 to 2005 and the Unfair Dismissals Acts 1977 to 2007.

F7**[Civil servant status of certain persons and related superannuation benefits**

45A. (1) Subject to *section 45*, a person who was a member of the staff of the Human Rights Commission and who—

(a) prior to the establishment day, ceased employment with the Human Rights Commission, or

(b) has a preserved superannuation benefit with the Human Rights Commission, shall, with effect from the date of commencement of this section, be deemed to be a civil servant in the Civil Service of the State in respect of superannuation benefits payable, in accordance with the provisions of those schemes, as a result of his or her membership of the superannuation schemes created under section 20 of the Human Rights Commission Act 2000.

(2) With effect from the date of commencement of this section, superannuation benefits referred to in *subsection (1)* shall be payable by the Minister for Public Expenditure, National Development Plan Delivery and Reform out of funds provided by the Oireachtas.**]**

Transfer of land and other property

46. (1) On the establishment day, all lands that, immediately before that day, were vested in a dissolved body and all rights, powers and privileges relating to or connected with such lands shall, without any conveyance or assignment, stand vested in the Commission for all the estate or interest therein that, immediately before the establishment day, was vested in the dissolved body concerned, but subject to all trusts and equities affecting the lands continuing to subsist and being capable of being performed.

(2) On the establishment day all property (other than land), including choses-in-action, that, immediately before that day, was vested in a dissolved body, shall stand vested in the Commission without any assignment.

(3) Every chose-in-action vested in the Commission by virtue of *subsection (2)* may, on and from the establishment day, be sued on, recovered or enforced by the Commission in its own name, and it shall not be necessary for the Commission, or the dissolved body concerned, to give notice to any person bound by the chose-in-action of the vesting effected by that subsection.

Transfer of rights and liabilities, and continuation of leases, licences and permissions granted by dissolved body

47. (1) All rights and liabilities of a dissolved body subsisting immediately before the establishment day and arising by virtue of any contract or commitment (expressed or implied) shall on that day stand transferred to the Commission.

(2) Every right and liability transferred by *subsection (1)* to the Commission may, on and after the establishment day, be sued on, recovered or enforced by or against the Commission in its own name, and it shall not be necessary for the Commission, or the dissolved body concerned, to give notice to the person whose right or liability is transferred by that subsection of such transfer.

(3) Every lease, licence, wayleave or permission granted by a dissolved body in relation to land or other property vested in the Commission by or under this Act, and in force immediately before the establishment day, shall continue in force as if granted by the Commission.

Liability for loss occurring before establishment day

48. (1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the establishment day

of any of the functions of a dissolved body shall on and after that day, lie against the Commission and not against the dissolved body.

(2) Any legal proceedings pending immediately before the establishment day to which a dissolved body is a party, shall be continued, with the substitution in the proceedings of the Commission, in so far as they so relate, for the dissolved body concerned.

(3) Where, before the establishment day, agreement has been reached between the parties concerned in settlement of a claim to which *subsection (1)* relates, the terms of which have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, in so far as they are enforceable against a dissolved body, be enforceable against the Commission and not the dissolved body concerned.

(4) Any claim made or proper to be made by a dissolved body in respect of any loss or injury arising from the act or default of any person before the establishment day shall be regarded as having been made by or proper to be made by the Commission and may be pursued and sued for by the Commission as if the loss or injury had been suffered by the Commission.

Provisions consequent upon transfer of functions, assets and liabilities to Commission

49. (1) Anything commenced and not completed before the establishment day by or under the authority of a dissolved body may, in so far as it relates to a function transferred to the Commission under *section 44* , be carried on or completed on or after the establishment day by the Commission.

(2) Every instrument made under an enactment and every document (including any certificate) granted or made, in the performance of a function transferred by *section 44*, shall, if and in so far as it was operative immediately before the establishment day, have effect on and after that day as if it had been granted or made by the Commission.

(3) References to a dissolved body in the memorandum or articles of associations of any company shall, on or after the establishment day, be construed as references to the Commission.

(4) Any money, stocks, shares or securities transferred by *section 46* that immediately before the establishment day were standing in the name of a dissolved body shall, on the request of the Commission be transferred into its name.

(5) A certificate signed by the Minister that any property, right or liability has or, as the case may be, has not vested in the Commission under *section 46* or *47* shall be sufficient evidence, unless the contrary is shown, of the fact so certified for all purposes.

Final accounts and final annual report of dissolved body

50. (1) The Commission shall, in respect of the period specified under *subsection (3)*, prepare final accounts of each dissolved body.

(2) The Commission shall submit the final accounts to the Comptroller and Auditor General for audit not later than 3 months after the establishment day and, immediately after the audit, a copy of the account and a copy of the Comptroller and Auditor General's report on the accounts shall be presented to the Minister who shall, as soon as may be after they are so presented, cause copies thereof to be laid before each House of the Oireachtas.

(3) For the purposes of *subsection (1)*, the Minister may specify a period that is longer or shorter than a financial year of the dissolved body concerned.

(4) The Commission shall prepare the final annual report for a dissolved body and submit the report to the Minister not later than 6 months after the establishment day.

(5) *Section 28* shall apply with the necessary modifications in relation to an annual report prepared under this section.

Saver in respect of certain schemes

51. (1) A scheme prepared under any enactment by a dissolved body that was in force immediately before the establishment day shall continue in force on and after that day.

(2) A scheme under any enactment that was altered by a dissolved body and that was in force immediately before the establishment day, shall continue in force on and after that day as so altered.

(3) For the avoidance of doubt, the Commission may amend or revoke a scheme to which this section applies under and in accordance with the enactment under which the scheme was prepared.

PART 5

Amendment of European Convention on Human Rights Act 2003

Definition for purposes of this Part

52. "Act of 2003" means the European Convention on Human Rights Act 2003.

Amendment of section 1 of Act of 2003

53. Section 1 of the Act of 2003 is amended—

(a) by the substitution of the following definition for the definition of "the Convention":

" 'Convention' means the Convention for the Protection of Human Rights and Fundamental Freedoms done at Rome on the 4th day of November 1950 (the text of which, in the English language, is, for convenience of reference, set out in Schedule 1 (amended by *section 55* of the *Irish Human Rights and Equality Commission Act 2014*) to this Act), as amended by—

(a) Protocol No. 11 done at Strasbourg on the 11th day of May 1994, and

(b) Protocol No. 14 done at Strasbourg on the 13th day of May 2004,",

and

(b) in the definition of "convention provisions" —

(i) by the insertion of the following paragraph after paragraph (d):

"(e) Protocol No. 13 to the Convention, concerning the abolition of the death penalty in all circumstances done at Vilnius on the 3rd day of May 2002,",

and

(ii) by the substitution of "Schedules 2, 3, 4, 5 and 6 (inserted by *section 55* of the *Irish Human Rights and Equality Commission Act 2014*) respectively, to this Act;" for "Schedules 2, 3, 4 and 5 respectively, to this Act;".

Enforceable right to compensation only to extent required by Article 5(5) of Convention

54. The Act of 2003 is amended by the insertion of the following section after section 3:

" **3A.** (1) A person (in this section referred to as an 'affected person') in respect of whom a finding has been made by the Court that he or she has been unlawfully deprived of his or her liberty as a result of a judicial act may institute proceedings in the Circuit Court to recover compensation for any loss, injury or damage suffered by him or her as a result of that judicial act and the Circuit Court may award to the person such damages (if any) as it considers appropriate.

(2) An action shall lie under this section only against—

(a) Ireland, and

(b) the Minister for Public Expenditure and Reform,

and no court or member of the judiciary may be enjoined in such an action.

(3) In proceedings under this section, the Circuit Court—

(a) shall not compensate an affected person, other than to the extent required by Article 5(5) of the Convention and then only to the extent that he or she suffered actual injury, loss or damage, and

(b) shall, in determining what compensation (if any) to award to the affected person, have regard to the principles and practice applied by the European Court of Human Rights in relation to affording just satisfaction to an injured party under Article 41 of the Convention.

(4) The compensation recoverable under this section in the Circuit Court shall not exceed the amount standing prescribed, for the time being by law, as the limit of that court's jurisdiction in tort.

(5) (a) Proceedings under this section shall be brought not later than 1 year from the date of the finding by the Court referred to in subsection (1).

(b) The period referred to in paragraph (a) may be extended by order made by the Circuit Court if it considers it appropriate to do so in the interests of justice.

(6) Nothing in this section shall operate to affect—

(a) the independence of a judge in the performance of his or her judicial functions, or

(b) any enactment or rule of law relating to immunity from suit of judges.

(7) The jurisdiction conferred on the Circuit Court by this section may be exercised by a judge of that court assigned to the circuit in which the

affected person ordinarily resides or carries on any profession, business or occupation.

(8) In this section—

'act', in relation to a judicial act, includes an omission;

'Court' means the High Court or the Supreme Court, as may be appropriate;

'judicial act' means an act of a court done in good faith but in excess of jurisdiction and includes an act done on the instructions of or on behalf of a judge."

Text of Convention for the Protection of Human Rights and Fundamental Freedoms

55. The Act of 2003 is amended—

(a) by the substitution of the text set out in *Schedule 3* for Schedule 1 to that Act, and

(b) by the insertion of the text set out in *Schedule 4* as Schedule 6 to that Act.

SCHEDULE 1

Repeals

Section 7

Number and year	Short title	Extent of repeal
No. 21 of 1998	Employment Equality Act 1998	Parts V and VI
No. 8 of 2000	Equal Status Act 2000	Part IV
No. 9 of 2000	Human Rights Commission Act 2000	The whole Act

SCHEDULE 2

Inquiries

Section 35

Evidence generally to be given in private

1. (1) The Commission shall conduct its inquiry in private unless—

(a) a witness requests that all or part of his or her evidence be heard in public and the Commission accedes to that request, or

(b) the Commission is satisfied that it is desirable in the interests of both the inquiry and fair procedures to hear all or part of the evidence of a witness in public.

(2) Where the evidence of a witness is heard in private—

(a) the Commission may give directions as to the persons who may be present while the evidence is heard,

(b) legal representatives of persons other than the witness may be present only if the Commission—

(i) is satisfied that their presence would be in keeping with the purposes of the inquiry and would be in the interests of fair procedures, and

(ii) directs that they be allowed to be present,

(c) the witness may be cross examined by or on behalf of any person only if the Commission so directs, and

(d) any member of the Commission may, orally or by written interrogatories, examine the witness on his or her evidence.

(3) A person (including a member of the Commission) shall not disclose or publish any evidence given or the contents of any document produced by a witness while giving evidence in private, except—

(a) as directed by a court,

(b) to the extent necessary for the purposes of *paragraph 2*, or

(c) to the extent otherwise necessary in the interests of fair procedures and then only with the written consent of the Commission.

(4) *Subparagraph (3)* shall not operate to prohibit the publication in a report under this Act of any facts established by the Commission on the basis of evidence received in private.

(5) A person who contravenes *subparagraph (3)* shall be guilty of an offence.

Commission to disclose substance of evidence to witnesses

2. (1) Subject to *subparagraph (2)*, the Commission shall disclose to a person—

(a) who is directed to attend as a witness before the Commission,

(b) who attends voluntarily to give evidence to the Commission, or

(c) about whom evidence is given to the Commission,

the substance of any evidence in its possession that, in its opinion, the person should be aware of for the purposes of the evidence that person may give or has given to the Commission.

(2) *Subparagraph (1)* does not require the disclosure of the source of any evidence given or document produced by a witness while giving evidence in private under *paragraph 1*, unless the Commission considers that, in view of the purposes of the inquiry or in the interests of fair procedures, the source should be disclosed.

(3) The Commission shall give a person to whom it discloses the substance of evidence under *subparagraph (1)* an opportunity to comment by written or oral submissions on the evidence.

Duty to inform witnesses of Commission's powers etc.

3. (1) Before a person gives evidence to the Commission, whether voluntarily or on being directed by it to do so, the Commission shall give the person a written statement—

(a) specifying the Commission's powers under *paragraphs 6*, *7* and *14*, and

(b) informing the person that, if he or she does not voluntarily co-operate with the Commission or withdraws co-operation, the Commission may exercise any of those powers as it considers necessary.

(2) If no legal representative is present to advise a witness, the Commission shall advise the witness of his or her legal rights and obligations while giving evidence on oath or affirmation.

(3) The duties imposed on the Commission under this paragraph may be performed by any member of the Commission.

Power to administer oaths etc.

4. (1) A witness who attends before the Commission to give evidence may be required to give evidence on oath or affirmation.

(2) Any member of the Commission may administer any oaths or take any affirmations necessary for the purposes of an inquiry.

Commission to establish or adopt rules and procedures

5. (1) The Commission may, having regard to the need to observe fair procedures, establish or adopt rules and procedures for—

(a) receiving and recording evidence, and

(b) receiving submissions.

(2) The rules and procedures of the Commission may, among other things, specify the form in which and the means by which evidence or submissions may be received by it.

(3) The Commission shall make copies of its rules and procedures available to persons likely to be affected by them.

Powers relating to witnesses and documents

6. (1) For the purposes of an inquiry, the Commission may do any or all of the following:

(a) direct in writing any person to attend before the Commission on a date and at a place and time specified in the direction and there to give evidence and to produce any document that is in the person's possession or power and is specified in the direction;

(b) direct a witness to answer questions that it believes to be relevant to a matter that is the subject of the inquiry;

(c) examine a witness on oath or affirmation or by use of a statutory declaration or written interrogatories;

(d) examine or cross examine any witness to the extent the Commission thinks proper in order to elicit information relevant to a matter that is the subject of the inquiry;

(e) direct a witness to produce to the Commission any document that is in his or her possession or power and is specified in the direction;

(f) direct in writing any person to—

(i) provide the Commission with a list, verified by affidavit, disclosing all documents in the person's possession or power relating to a matter that is the subject of the inquiry, and

(ii) specify in the affidavit any of the listed documents that the person objects to producing to the Commission and the basis for the objection;

(g) direct in writing any person to send to the Commission any document that is in the person's possession or power and is specified in the direction;

(h) give any other directions that appear to the Commission to be reasonable.

(2) The powers of the Commission under *subparagraph (1)* may be exercised by any member of the Commission.

(3) A person who attends, whether voluntarily or otherwise, before the Commission is entitled to be paid by the Commission such amount in respect of the expenses of his or her attendance as is determined in accordance with guidelines prepared by the Commission in consultation with the Minister, with the consent of the Minister for Public Expenditure and Reform.

(4) The rules of court relating to the discovery of documents in proceedings in the High Court apply with any necessary modifications in relation to the disclosure of documents under *subparagraph (1)(f)*.

(5) Where a person does not comply with a direction given by the Commission under this paragraph, the Commission may make an application to the High Court in accordance with *paragraph 11*.

(6) A person who, without reasonable excuse, fails to comply with a direction under *subparagraph (1)(a)* to attend before the Commission shall be guilty of an offence.

(7) The failure of a person to comply with a direction under *subparagraph (1)(a)* —

(a) may be punished as a contempt following an application under *paragraph 11* even though it could be punished as an offence, and

(b) may be punished as an offence even though it could be punished as a contempt,

but the person is not liable to be punished twice.

(8) In *subparagraph (3)* ' 'expenses' ' does not include any legal costs.

Powers to direct certain persons to pay costs

7. (1) If, as a result of a person—

(a) failing, without reasonable excuse, to comply with a direction under *paragraph 6*, or

(b) otherwise obstructing an inquiry,

the Commission incurs costs that it would not otherwise have incurred, it may, in writing, direct the person to pay to the Commission those costs, including legal costs as taxed by a Taxing Master of the High Court and costs arising from any delay in completing the inquiry.

(2) If any person who attends before or gives evidence to the Commission is adversely affected as a result of an act or omission referred to in *subparagraph (1)*, the Commission may—

(a) on its own initiative, or

(b) at the request of the person adversely affected,

direct the person whose act or omission had that result to pay to the person adversely affected all or part of any costs (including legal costs as taxed by a Taxing Master of the High Court) that he or she incurred as a result of the act or omission.

(3) A direction of the Commission to pay costs under *subparagraph (1)* or *(2)* shall not take effect until it is confirmed by the High Court on application to it by the Commission.

(4) On application for an order under *subparagraph (3)*, the High Court may—

(a) make an order confirming the direction with or without modification, or

(b) refuse to make such an order.

(5) Subject to *subparagraph (3)*, any sum payable pursuant to a direction under this paragraph may be recovered as a simple contract debt in any court of competent jurisdiction.

(6) A person may be directed to pay costs under this paragraph even though the act or omission that resulted in the direction is punishable as contempt or as an offence under this Act, and the direction does not prevent the person being punished for contempt or the bringing of proceedings in respect of the offence.

Offence of making false statement

8. Any person who, while giving evidence pursuant to an inquiry, makes a statement material in the inquiry concerned that the person knows to be false or does not believe to be true shall be guilty of an offence.

Evidence given to Commission not admissible in certain proceedings

9. None of the following is admissible as evidence against a person in any criminal or other proceedings, other than in proceedings for an offence under *paragraph 8*:

(a) a statement or admission made by the person to the Commission;

(b) a document given or sent to the Commission pursuant to a direction or request of the Commission to the person;

(c) a document specified in an affidavit of documents made by the person and given to the Commission pursuant to a direction or request of the Commission.

Privileges and immunities of witnesses

10. A person who gives evidence to the Commission or who produces or sends documents to the Commission as directed by the Commission—

(a) has the same immunities and privileges in respect of that evidence or those documents, and

(b) is, in addition to the penalties provided by this Act, subject to the same liabilities,

as a witness in proceedings in the High Court.

Application to court in event of failure to comply with certain requirements

11. (1) If it appears to the Commission that a person has failed to comply with a direction under *paragraph 6*, the Commission may apply to the High Court for an order requiring the person to comply with the requirement.

(2) On application to it under *subparagraph (1)* the High Court may, if satisfied as to the failure of the person concerned to comply with the requirement concerned, make the order directing that person to comply with the requirement unless the Court is of opinion that the requirement in question purports to require the person concerned to—

(a) produce a document or thing, or

(b) furnish information,

for which the person is entitled to claim legal professional privilege, in which case it shall set aside the requirement.

Guidelines relating to recovery of legal costs necessarily incurred by witnesses

12. (1) With the consent of the Minister for Public Expenditure and Reform and after consulting with the Commission, the Minister shall prepare general guidelines (in this Act referred to as "legal costs guidelines") concerning the payment by the Commission to witnesses of legal costs necessarily incurred by them in connection with an inquiry.

(2) For the purposes of this paragraph and *paragraph 13*, legal costs are necessarily incurred by a witness in connection with an inquiry by the Commission if—

(a) the good name or conduct of the witness is called into question by any evidence received by the Commission, or

(b) other personal or property rights of the witness are at risk of being jeopardised as a result of any evidence received by the Commission.

(3) The legal costs guidelines may—

(a) restrict the types of legal services or fees for which payment may be made, and

(b) otherwise limit (including by specifying maximum amounts) the extent to which legal costs may be paid.

(4) Before evidence is given to the Commission, the Commission shall give the witness a copy of the legal costs guidelines prepared by the Minister.

Requests for recovery of costs

13. (1) The Commission may, if it is satisfied of the matters specified in *subparagraph (2)*, pay all or part of the legal costs necessarily incurred by a witness in connection with its inquiry as may be agreed between the Commission with that person or, in default of agreement, such costs as may be taxed by a Taxing Master of the High Court.

(2) The Commission shall be satisfied that—

(a) the legal costs were necessarily incurred,

(b) the level and amount of those costs are reasonable, and

(c) the payment comes within the legal costs guidelines.

(3) For the purpose of satisfying itself as to the matters specified in *subparagraph (2)*, the Commission shall consider all relevant factors, including—

(a) the nature, complexity and extent of the evidence given to the Commission by the witness,

(b) the nature, complexity and volume of any documents or list of documents provided by the witness to the Commission,

(c) whether evidence given by or relating to the witness was given in private or in public,

(d) whether the witness was cross examined by or on behalf of other persons,

(e) whether there has been any improper failure by the witness to co-operate with the Commission in its inquiry and, if so, the degree of failure, and

(f) any potential consequences for the witness arising from the publication of the Commission's report.

(4) After considering all relevant factors, the Commission may direct in writing that a witness be paid less than the maximum amount provided for in the legal costs guidelines.

(5) If a witness who has incurred substantial expenses (other than legal costs) because of—

(a) the nature, volume or location of the documents produced by the witness,

(b) the location outside the State from which the witness travelled to attend before the Commission, or

(c) any other factor not within the control of the witness,

requests payment of all or part of those expenses, the Commission may, on being satisfied that they were necessary in the circumstances, direct in writing that such amount of the expenses as it considers reasonable be paid by it as may be agreed between the Commission and that person or, in default of agreement, such costs as may be taxed by a Taxing Master of the High Court.

(6) A written direction of the Commission shall be signed by a member of the Commission.

Other powers relating to inquiries

14. (1) Upon the application in that behalf of a member of staff of the Commission to the District Court, a judge of the District Court may, if satisfied that there are reasonable grounds for believing that there has been a failure to comply with a requirement under *paragraph 6* in respect of any documents or things and such documents or things are on any premises (including a dwelling), issue a warrant authorising the person named on the warrant, accompanied by such members of staff of the Commission or members of An Garda Síochána as may be necessary, at any time or times within one month after the date of issue of the warrant to—

(a) enter the premises (if necessary by the use of reasonable force),

(b) search the premises and inspect and take possession of all books, documents, records or things as appear to be the documents or things that are the subject of a requirement under *paragraph 6(1)(f)*, and

(c) take all necessary measures to ensure that such documents or things are preserved and not interfered with.

(2) Subject to *subparagraph (3)*, any documents or things of which possession is taken in accordance with a warrant under this paragraph may be retained until the completion of the inquiry by the Commission.

(3) If within the period specified in *subparagraph (2)*, proceedings for an offence are brought against any person and documents or other things of which possession is taken in accordance with a warrant under this paragraph are required for the purposes of those proceedings, those documents or things may be retained until final judgment is entered in those proceedings.

(4) Any person who obstructs or interferes with a member of staff of the Commission or a member of An Garda Síochána in the course of exercising a power conferred on him or her by warrant under this paragraph or impedes the exercise by the member of staff or member of An Garda Síochána, as the case may be, shall be guilty of an offence.

Reports arising from inquiry

15. (1) The Commission may, and if requested by the Minister shall, make interim reports to the Minister during the course of its inquiry under *section 35* .

(2) On the conclusion of the inquiry, the Commission shall—

(a) prepare a written report, based on the evidence received by it, setting out the facts it established in relation to the inquiry,

(b) make such recommendations as it thinks fit, and

(c) furnish the report to the Minister.

(3) The Commission may omit from its report any information that identifies or that could reasonably be expected to lead to the identification of a person who gave evidence to the Commission or any other person, if in its opinion—

(a) the context in which the person was identified has not been clearly established,

(b) disclosure of the information might prejudice any criminal proceedings that are pending or in progress,

(c) disclosure of the information would not be in the interests of the inquiry or any subsequent inquiry, or

(d) it would not be in the person's interests to have his or her identity made public and the omission of the information would not be contrary to the interests of the inquiry or any subsequent inquiry.

(4) Before submitting a final or interim report to the Minister, the Commission shall send a draft of the report, or a relevant part of it, to any person who is identified in or identifiable from the draft report and advise the person by notice in writing that he or she may make written submissions within the time specified in the notice to the Commission if he or she believes that the Commission has not observed fair procedures in relation to the person.

(5) Where the Commission receives submissions from a person under *subparagraph (4)*, the Commission shall have regard to such submissions and may—

(a) amend the report,

(b) apply to the Circuit Court for directions, or

(c) submit the report to the Minister without making any amendments.

(6) After hearing an application under *subparagraph (5)* the Court may make any order or give any directions it thinks fit, including a direction to the Commission to do one or more of the following:

(a) submit the draft report to the Minister without making any amendments;

(b) give a person specified by the Court an opportunity to give any evidence or make any submission that it considers necessary before the draft report is finalised;

(c) submit the draft report to the Minister after making such amendments as the Court may direct.

(7) Before submitting the report to the Minister, the Commission shall give written notice of any amendments made under this paragraph to any person who is identified in or identifiable from the report and who is affected by the amendments.

Confidentiality of draft reports

16. (1) A person who receives a draft of a report or part of a draft report from the Commission under *paragraph 15* shall not disclose its contents or divulge in any way that the draft or part of the draft has been sent to that person, except—

(a) with the prior written consent of the Commission, or

(b) to the extent necessary for the purposes of an application to the Circuit Court.

(2) A person who contravenes *subparagraph (1)* shall be guilty of an offence.

Publication of final and interim reports

17. (1) Subject to *subparagraph (2)*, the Commission shall cause the final report or an interim report to be published or otherwise made available and shall give notice to the public of the publication or availability.

(2) If the Commission considers that the publication of the final report or an interim report may prejudice any criminal proceedings that are pending or in progress, it shall apply to the Circuit Court for directions concerning the publication of the report.

(3) Before determining an application under *subparagraph (2)*, the Court shall direct that notice be given to the following:

(a) the Attorney General;

(b) the Director of Public Prosecutions;

(c) any person who is a defendant in criminal proceedings relating to an act or omission that is mentioned in the report or that is related to any matter inquired into by the Commission and mentioned in the report.

(4) On an application under *subparagraph (2)*, the Circuit Court may—

(a) receive submissions, and evidence tendered, by or on behalf of any person mentioned in *subparagraph (3)*, and

(b) hear the application in private if the Court considers it appropriate to do so.

(5) If, after hearing the application, the Circuit Court considers that the publication of the report may prejudice any criminal proceedings, it may direct that the report or a specified part of it not be published—

(a) for a specified period, or

(b) until the Court otherwise directs.

Documents of Commission relating to inquiries absolutely privileged

18. The following are absolutely privileged:

(a) documents of the Commission (including its draft, interim and final reports), wherever published;

(b) documents of the members of the Commission relating to the Commission or its functions, wherever published;

(c) statements made in any form by members of the Commission in performing their functions under this Act and such statements wherever subsequently published.

SCHEDULE 3

Convention for the Protection of Human Rights and Fundamental Freedoms[1]

Section 55

SCHEDULE 1

Convention for the Protection of Human Rights and Fundamental Freedoms

Rome, 4.XI.1950

The governments signatory hereto, being members of the Council of Europe,

Considering the Universal Declaration of Human Rights proclaimed by the General Assembly of the United Nations on 10th December 1948;

Considering that this Declaration aims at securing the universal and effective recognition and observance of the Rights therein declared;

Considering that the aim of the Council of Europe is the achievement of greater unity between its members and that one of the methods by which that aim is to be pursued is the maintenance and further realisation of human rights and fundamental freedoms;

Reaffirming their profound belief in those fundamental freedoms which are the foundation of justice and peace in the world and are best maintained on the one hand by an effective political democracy and on the other by a common understanding and observance of the human rights upon which they depend;

Being resolved, as the governments of European countries which are like-minded and have a common heritage of political traditions, ideals, freedom

[1] Text amended by the provisions of Protocol No. 14 (CETS No. 194) as from the date of its entry into force on 1 June 2010.

The text of the Convention had been previously amended according to the provisions of Protocol No. 3 (ETS No. 45), which entered into force on 21 September 1970, of Protocol No. 5 (ETS No. 55), which entered into force on 20 December 1971 and of Protocol No. 8 (ETS No. 118), which entered into force on 1 January 1990, and comprised also the text of Protocol No. 2 (ETS No. 44) which, in accordance with Article 5, paragraph 3 thereof, had been an integral part of the Convention since its entry into force on 21 September 1970. All provisions which had been amended or added by these Protocols were replaced by Protocol No. 11 (ETS No. 155), as from the date of its entry into force on 1 November 1998. As from that date, Protocol No. 9 (ETS No. 140), which entered into force on 1 October 1994, was repealed and Protocol No. 10 (ETS no. 146) had lost its purpose.

and the rule of law, to take the first steps for the collective enforcement of certain of the rights stated in the Universal Declaration,

Have agreed as follows:

Article 1 - Obligation to respect human rights

The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention.

Section I - Rights and freedoms

Article 2 - Right to life

1 Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2 Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:

a in defence of any person from unlawful violence;

b in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

c in action lawfully taken for the purpose of quelling a riot or insurrection.

Article 3 - Prohibition of torture

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Article 4 - Prohibition of slavery and forced labour

1 No one shall be held in slavery or servitude.

2 No one shall be required to perform forced or compulsory labour.

3 For the purpose of this article the term "forced or compulsory labour" shall not include:

a any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;

b any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;

c any service exacted in case of an emergency or calamity threatening the life or well-being of the community;

d any work or service which forms part of normal civic obligations.

Article 5 - Right to liberty and security

1 Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

a the lawful detention of a person after conviction by a competent court;

b the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;

c the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;

d the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;

e the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;

f the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

2 Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

3 Everyone arrested or detained in accordance with the provisions of paragraph 1.c of this article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

4 Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

5 Everyone who has been the victim of arrest or detention in contravention of the provisions of this article shall have an enforceable right to compensation.

Article 6 - Right to a fair trial

1 In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

2 Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

3 Everyone charged with a criminal offence has the following minimum rights:

a to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;

b to have adequate time and facilities for the preparation of his defence;

c to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

d to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

e to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

Article 7 - No punishment without law

1 No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.

2 This article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.

Article 8 - Right to respect for private and family life

1 Everyone has the right to respect for his private and family life, his home and his correspondence.

2 There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 9 - Freedom of thought, conscience and religion

1 Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2 Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Article 10 - Freedom of expression

1 Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2 The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for

preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 11 - Freedom of assembly and association

1 Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2 No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

Article 12 - Right to marry

Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.

Article 13 - Right to an effective remedy

Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

Article 14 - Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Article 15 - Derogation in time of emergency

1 In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.

2 No derogation from Article 2, except in respect of deaths resulting from lawful acts of war, or from Articles 3, 4 (paragraph 1) and 7 shall be made under this provision.

3 Any High Contracting Party availing itself of this right of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures which it has taken and the reasons therefor. It shall also inform the Secretary General of the Council of Europe when such measures have ceased to operate and the provisions of the Convention are again being fully executed.

Article 16 - Restrictions on political activity of aliens

Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.

Article 17 - Prohibition of abuse of rights

Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.

Article 18 - Limitation on use of restrictions on rights

The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.

Section II - European Court of Human Rights

Article 19 - Establishment of the Court

To ensure the observance of the engagements undertaken by the High Contracting Parties in the Convention and the Protocols thereto, there shall be set up a European Court of Human Rights, hereinafter referred to as "the Court". It shall function on a permanent basis.

Article 20 - Number of judges

The Court shall consist of a number of judges equal to that of the High Contracting Parties.

Article 21 - Criteria for office

1 The judges shall be of high moral character and must either possess the qualifications required for appointment to high judicial office or be jurisconsults of recognised competence.

2 The judges shall sit on the Court in their individual capacity.

3 During their term of office the judges shall not engage in any activity which is incompatible with their independence, impartiality or with the demands of a full-time office; all questions arising from the application of this paragraph shall be decided by the Court.

Article 22 - Election of judges [1]

The judges shall be elected by the Parliamentary Assembly with respect to each High Contracting Party by a majority of votes cast from a list of three candidates nominated by the High Contracting Party.

Article 23 - Terms of office and dismissal [2]

1 The judges shall be elected for a period of nine years. They may not be re-elected.

2 The terms of office of judges shall expire when they reach the age of 70.

3 The judges shall hold office until replaced. They shall, however, continue to deal with such cases as they already have under consideration.

4 No judge may be dismissed from office unless the other judges decide by a majority of two-thirds that that judge has ceased to fulfil the required conditions.

[1] Text amended according to the provisions of Protocol No.14 (CETS No. 194)
[2] Article renumbered, heading and text amended according to the provisions of Protocol No. 14 (CETS No. 194).

Article 24 - Registry and rapporteurs [2]

1 The Court shall have a registry, the functions and organisation of which shall be laid down in the rules of the Court.

2 When sitting in a single-judge formation, the Court shall be assisted by rapporteurs who shall function under the authority of the President of the Court. They shall form part of the Court's registry.

Article 25 - Plenary Court [2]

The plenary Court shall

a elect its President and one or two Vice-Presidents for a period of three years; they may be re-elected;

b set up Chambers, constituted for a fixed period of time;

c elect the Presidents of the Chambers of the Court; they may be re-elected;

d adopt the rules of the Court;

e elect the Registrar and one or more Deputy Registrars;

f make any request under Article 26, paragraph 2.

Article 26 - Single-judge formation, committees, Chambers and Grand Chamber [2]

1 To consider cases brought before it, the Court shall sit in a single-judge formation, in committees of three judges, in Chambers of seven judges and in a Grand Chamber of seventeen judges. The Court's Chambers shall set up committees for a fixed period of time.

2 At the request of the plenary Court, the Committee of Ministers may, by a unanimous decision and for a fixed period, reduce to five the number of judges of the Chambers.

3 When sitting as a single judge, a judge shall not examine any application against the High Contracting Party in respect of which that judge has been elected.

4 There shall sit as an ex officio member of the Chamber and the Grand Chamber the judge elected in respect of the High Contracting Party concerned. If there is none or if that judge is unable to sit, a person chosen by the President of the Court from a list submitted in advance by that Party shall sit in the capacity of judge.

5 The Grand Chamber shall also include the President of the Court, the Vice-Presidents, the Presidents of the Chambers and other judges chosen in accordance with the rules of the Court. When a case is referred to the Grand Chamber under Article 43, no judge from the Chamber which rendered the judgment shall sit in the Grand Chamber, with the exception of the President of the Chamber and the judge who sat in respect of the High Contracting Party concerned.

[2] Article renumbered, heading and text amended according to the provisions of Protocol No. 14 (CETS No. 194).
[2] Article renumbered, heading and text amended according to the provisions of Protocol No. 14 (CETS No. 194).
[2] Article renumbered, heading and text amended according to the provisions of Protocol No. 14 (CETS No. 194).

Article 27 - Competence of single judges [3]

1 A single judge may declare inadmissible or strike out of the Court's list of cases an application submitted under Article 34, where such a decision can be taken without further examination.

2 The decision shall be final.

3 If the single judge does not declare an application inadmissible or strike it out, that judge shall forward it to a committee or to a Chamber for further examination.

Article 28 - Competence of committees [4]

1 In respect of an application submitted under Article 34, a committee may, by a unanimous vote,

a declare it inadmissible or strike it out of its list of cases, where such decision can be taken without further examination; or

b declare it admissible and render at the same time a judgment on the merits, if the underlying question in the case, concerning the interpretation or the application of the Convention or the Protocols thereto, is already the subject of well-established case-law of the Court.

2 Decisions and judgments under paragraph 1 shall be final.

3 If the judge elected in respect of the High Contracting Party concerned is not a member of the committee, the committee may at any stage of the proceedings invite that judge to take the place of one of the members of the committee, having regard to all relevant factors, including whether that Party has contested the application of the procedure under paragraph 1.b.

Article 29 - Decisions by Chambers on admissibility and merits [1]

1 If no decision is taken under Article 27 or 28, or no judgment rendered under Article 28, a Chamber shall decide on the admissibility and merits of individual applications submitted under Article 34. The decision on admissibility may be taken separately.

2 A Chamber shall decide on the admissibility and merits of inter-State applications submitted under Article 33. The decision on admissibility shall be taken separately unless the Court, in exceptional cases, decides otherwise.

Article 30 - Relinquishment of jurisdiction to the Grand Chamber

Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the protocols thereto, or where the resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber, unless one of the parties to the case objects.

Article 31 - Powers of the Grand Chamber[1]

The Grand Chamber shall

[3] New article according to the provisions of Protocol No. 14 (CETS No. 194).
[4] Heading and text amended according to the provisions of Protocol No. 14 (CETS No. 194).
[1] Text amended according to the provisions of Protocol No. 14 (CETS No. 194).
[1] Text amended according to the provisions of Protocol No. 14 (CETS No. 194).

a determine applications submitted either under Article 33 or Article 34 when a Chamber has relinquished jurisdiction under Article 30 or when the case has been referred to it under Article 43;

b decide on issues referred to the Court by the Committee of Ministers in accordance with Article 46, paragraph 4; and

c consider requests for advisory opinions submitted under Article 47.

Article 32 - Jurisdiction of the Court [1]

1 The jurisdiction of the Court shall extend to all matters concerning the interpretation and application of the Convention and the protocols thereto which are referred to it as provided in Articles 33, 34, 46 and 47.

2 In the event of dispute as to whether the Court has jurisdiction, the Court shall decide.

Article 33 - Inter-State cases

Any High Contracting Party may refer to the Court any alleged breach of the provisions of the Convention and the protocols thereto by another High Contracting Party.

Article 34 - Individual applications

The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right.

Article 35 - Admissibility criteria [1]

1 The Court may only deal with the matter after all domestic remedies have been exhausted, according to the generally recognised rules of international law, and within a period of six months from the date on which the final decision was taken.

2 The Court shall not deal with any application submitted under Article 34 that

a is anonymous; or

b is substantially the same as a matter that has already been examined by the Court or has already been submitted to another procedure of international investigation or settlement and contains no relevant new information.

3 The Court shall declare inadmissible any individual application submitted under Article 34 if it considers that:

a the application is incompatible with the provisions of the Convention or the Protocols thereto, manifestly ill-founded, or an abuse of the right of individual application; or

b the applicant has not suffered a significant disadvantage, unless respect for human rights as defined in the Convention and the Protocols thereto requires an examination of the application on the merits and provided that no case may be rejected on this ground which has not been duly considered by a domestic tribunal.

[1] Text amended according to the provisions of Protocol No. 14 (CETS No. 194).
[1] Text amended according to the provisions of Protocol No. 14 (CETS No. 194).

4 The Court shall reject any application which it considers inadmissible under this Article. It may do so at any stage of the proceedings.

Article 36 - Third party intervention [1]

1 In all cases before a Chamber or the Grand Chamber, a High Contracting Party one of whose nationals is an applicant shall have the right to submit written comments and to take part in hearings.

2 The President of the Court may, in the interest of the proper administration of justice, invite any High Contracting Party which is not a party to the proceedings or any person concerned who is not the applicant to submit written comments or take part in hearings.

3 In all cases before a Chamber or the Grand Chamber, the Council of Europe Commissioner for Human Rights may submit written comments and take part in hearings.

Article 37 - Striking out applications

1 The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that

a the applicant does not intend to pursue his application; or

b the matter has been resolved; or

c for any other reason established by the Court, it is no longer justified to continue the examination of the application.

However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the protocols thereto so requires.

2 The Court may decide to restore an application to its list of cases if it considers that the circumstances justify such a course.

Article 38 - Examination of the case [4]

The Court shall examine the case together with the representatives of the parties and, if need be, undertake an investigation, for the effective conduct of which the High Contracting Parties concerned shall furnish all necessary facilities.

Article 39 - Friendly settlements 4

1 At any stage of the proceedings, the Court may place itself at the disposal of the parties concerned with a view to securing a friendly settlement of the matter on the basis of respect for human rights as defined in the Convention and the Protocols thereto.

2 Proceedings conducted under paragraph 1 shall be confidential.

3 If a friendly settlement is effected, the Court shall strike the case out of its list by means of a decision which shall be confined to a brief statement of the facts and of the solution reached.

4 This decision shall be transmitted to the Committee of Ministers, which shall supervise the execution of the terms of the friendly settlement as set out in the decision.

[1] Text amended according to the provisions of Protocol No. 14 (CETS No. 194).
[4] Heading and text amended according to the provisions of Protocol No. 14 (CETS No. 194).

Article 40 - Public hearings and access to documents

1 Hearings shall be in public unless the Court in exceptional circumstances decides otherwise.

2 Documents deposited with the Registrar shall be accessible to the public unless the President of the Court decides otherwise.

Article 41 - Just satisfaction

If the Court finds that there has been a violation of the Convention or the protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.

Article 42 - Judgments of Chambers

Judgments of Chambers shall become final in accordance with the provisions of Article 44, paragraph 2.

Article 43 - Referral to the Grand Chamber

1 Within a period of three months from the date of the judgment of the Chamber, any party to the case may, in exceptional cases, request that the case be referred to the Grand Chamber.

2 A panel of five judges of the Grand Chamber shall accept the request if the case raises a serious question affecting the interpretation or application of the Convention or the protocols thereto, or a serious issue of general importance.

3 If the panel accepts the request, the Grand Chamber shall decide the case by means of a judgment.

Article 44 - Final judgments

1 The judgment of the Grand Chamber shall be final.

2 The judgment of a Chamber shall become final

a when the parties declare that they will not request that the case be referred to the Grand Chamber; or

b three months after the date of the judgment, if reference of the case to the Grand Chamber has not been requested; or

c when the panel of the Grand Chamber rejects the request to refer under Article 43.

3 The final judgment shall be published.

Article 45 - Reasons for judgments and decisions

1 Reasons shall be given for judgments as well as for decisions declaring applications admissible or inadmissible.

2 If a judgment does not represent, in whole or in part, the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.

Article 46 - Binding force and execution of judgments [1]

1 The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties.

[1] Text amended according to the provisions of Protocol No. 14 (CETS No. 194).

2 The final judgment of the Court shall be transmitted to the Committee of Ministers, which shall supervise its execution.

3 If the Committee of Ministers considers that the supervision of the execution of a final judgment is hindered by a problem of interpretation of the judgment, it may refer the matter to the Court for a ruling on the question of interpretation. A referral decision shall require a majority vote of two thirds of the representatives entitled to sit on the Committee.

4 If the Committee of Ministers considers that a High Contracting Party refuses to abide by a final judgment in a case to which it is a party, it may, after serving formal notice on that Party and by decision adopted by a majority vote of two thirds of the representatives entitled to sit on the Committee, refer to the Court the question whether that Party has failed to fulfil its obligation under paragraph 1.

5 If the Court finds a violation of paragraph 1, it shall refer the case to the Committee of Ministers for consideration of the measures to be taken. If the Court finds no violation of paragraph 1, it shall refer the case to the Committee of Ministers, which shall close its examination of the case.

Article 47 - Advisory opinions

1 The Court may, at the request of the Committee of Ministers, give advisory opinions on legal questions concerning the interpretation of the Convention and the protocols thereto.

2 Such opinions shall not deal with any question relating to the content or scope of the rights or freedoms defined in Section I of the Convention and the protocols thereto, or with any other question which the Court or the Committee of Ministers might have to consider in consequence of any such proceedings as could be instituted in accordance with the Convention.

3 Decisions of the Committee of Ministers to request an advisory opinion of the Court shall require a majority vote of the representatives entitled to sit on the Committee.

Article 48 - Advisory jurisdiction of the Court

The Court shall decide whether a request for an advisory opinion submitted by the Committee of Ministers is within its competence as defined in Article 47.

Article 49 - Reasons for advisory opinions

1 Reasons shall be given for advisory opinions of the Court.

2 If the advisory opinion does not represent, in whole or in part, the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.

3 Advisory opinions of the Court shall be communicated to the Committee of Ministers.

Article 50 - Expenditure on the Court

The expenditure on the Court shall be borne by the Council of Europe.

Article 51 - Privileges and immunities of judges

The judges shall be entitled, during the exercise of their functions, to the privileges and immunities provided for in Article 40 of the Statute of the Council of Europe and in the agreements made thereunder.

Section III - Miscellaneous provisions

Article 52 - Inquiries by the Secretary General

On receipt of a request from the Secretary General of the Council of Europe any High Contracting Party shall furnish an explanation of the manner in which its internal law ensures the effective implementation of any of the provisions of the Convention.

Article 53 - Safeguard for existing human rights

Nothing in this Convention shall be construed as limiting or derogating from any of the human rights and fundamental freedoms which may be ensured under the laws of any High Contracting Party or under any other agreement to which it is a Party.

Article 54 - Powers of the Committee of Ministers

Nothing in this Convention shall prejudice the powers conferred on the Committee of Ministers by the Statute of the Council of Europe.

Article 55 - Exclusion of other means of dispute settlement

The High Contracting Parties agree that, except by special agreement, they will not avail themselves of treaties, conventions or declarations in force between them for the purpose of submitting, by way of petition, a dispute arising out of the interpretation or application of this Convention to a means of settlement other than those provided for in this Convention.

Article 56 - Territorial application

1 Any State may at the time of its ratification or at any time thereafter declare by notification addressed to the Secretary General of the Council of Europe that the present Convention shall, subject to paragraph 4 of this Article, extend to all or any of the territories for whose international relations it is responsible.

2 The Convention shall extend to the territory or territories named in the notification as from the thirtieth day after the receipt of this notification by the Secretary General of the Council of Europe.

3 The provisions of this Convention shall be applied in such territories with due regard, however, to local requirements.

4 Any State which has made a declaration in accordance with paragraph 1 of this article may at any time thereafter declare on behalf of one or more of the territories to which the declaration relates that it accepts the competence of the Court to receive applications from individuals, non-governmental organisations or groups of individuals as provided by Article 34 of the Convention.

Article 57 - Reservations

1 Any State may, when signing this Convention or when depositing its instrument of ratification, make a reservation in respect of any particular provision of the Convention to the extent that any law then in force in its territory is not in conformity with the provision. Reservations of a general character shall not be permitted under this article.

2 Any reservation made under this article shall contain a brief statement of the law concerned.

Article 58 - Denunciation

1 A High Contracting Party may denounce the present Convention only after the expiry of five years from the date on which it became a party to it and after six months' notice contained in a notification addressed to the Secretary General of the Council of Europe, who shall inform the other High Contracting Parties.

2 Such a denunciation shall not have the effect of releasing the High Contracting Party concerned from its obligations under this Convention in respect of any act which, being capable of constituting a violation of such obligations, may have been performed by it before the date at which the denunciation became effective.

3 Any High Contracting Party which shall cease to be a member of the Council of Europe shall cease to be a Party to this Convention under the same conditions.

4 The Convention may be denounced in accordance with the provisions of the preceding paragraphs in respect of any territory to which it has been declared to extend under the terms of Article 56.

Article 59 - Signature and ratification [1]

1 This Convention shall be open to the signature of the members of the Council of Europe. It shall be ratified. Ratifications shall be deposited with the Secretary General of the Council of Europe.

2 The European Union may accede to this Convention.

3 The present Convention shall come into force after the deposit of ten instruments of ratification.

4 As regards any signatory ratifying subsequently, the Convention shall come into force at the date of the deposit of its instrument of ratification.

5 The Secretary General of the Council of Europe shall notify all the members of the Council of Europe of the entry into force of the Convention, the names of the High Contracting Parties who have ratified it, and the deposit of all instruments of ratification which may be effected subsequently.

Done at Rome this 4th day of November 1950, in English and French, both texts being equally authentic, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General shall transmit certified copies to each of the signatories.

SCHEDULE 4

Insertion of a Schedule 6 in Act of 2003

Section 55

SCHEDULE 6

Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Concerning the Abolition of the Death Penalty in all Circumstances.

Vilnius, 3.V. 200 2

[1] Text amended according to the provisions of Protocol No. 14 (CETS No. 194).

The member States of the Council of Europe signatory hereto,

Convinced that everyone's right to life is a basic value in a democratic society and that the abolition of the death penalty is essential for the protection of this right and for the full recognition of the inherent dignity of all human beings;

Wishing to strengthen the protection of the right to life guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950 (hereinafter referred to as "the Convention");

Noting that Protocol No. 6 to the Convention, concerning the Abolition of the Death Penalty, signed at Strasbourg on 28 April 1983, does not exclude the death penalty in respect of acts committed in time of war or of imminent threat of war;

Being resolved to take the final step in order to abolish the death penalty in all circumstances,

Have agreed as follows:

Article 1 - Abolition of the death penalty

The death penalty shall be abolished. No one shall be condemned to such penalty or executed.

Article 2 - Prohibition of derogations

No derogation from the provisions of this Protocol shall be made under Article 15 of the Convention.

Article 3 - Prohibition of reservations

No reservation may be made under Article 57 of the Convention in respect of the provisions of this Protocol.

Article 4 - Territorial application

1 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Protocol shall apply.

2 Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

3 Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn or modified by a notification addressed to the Secretary General. The withdrawal or modification shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

Article 5 - Relationship to the Convention

As between the States Parties the provisions of Articles 1 to 4 of this Protocol shall be regarded as additional articles to the Convention, and all the provisions of the Convention shall apply accordingly.

Article 6 - Signature and ratification

This Protocol shall be open for signature by member States of the Council of Europe which have signed the Convention. It is subject to ratification, acceptance or approval. A member State of the Council of Europe may not ratify, accept or approve this Protocol without previously or simultaneously ratifying the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article 7 - Entry into force

1 This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date on which ten member States of the Council of Europe have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 6.

2 In respect of any member State which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

Article 8 - Depositary functions

The Secretary General of the Council of Europe shall notify all the member States of the Council of Europe of:

a any signature;

b the deposit of any instrument of ratification, acceptance or approval;

c any date of entry into force of this Protocol in accordance with Articles 4 and 7;

d any other act, notification or communication relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Vilnius, this 3 May 2002, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.

Number 25 *of* 2014

IRISH HUMAN RIGHTS AND EQUALITY COMMISSION ACT 2014

REVISED

Updated to 3 July 2023

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

Employment Equality Acts 1998 to 2021: this Act is one of a group of Acts included in this collective citation (*Gender Pay Gap Information Act 2021*, s. 7(2)). The Acts in the group are:

- *Employment Equality Act 1998* (21/1998)
- *Equality Act 2004* (24/2004), Part 2
- *Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007* (27/2007), insofar as it relates to the previous two Acts
- *Civil Law (Miscellaneous Provisions) Act 2008* (14/2008), Part 16
- *Civil Law (Miscellaneous Provisions) Act 2011* (23/2011), ss. 18 to 26
- *Equality (Miscellaneous Provisions) Act 2015* (43/2015), ss. 3 to 11
- *Gender Pay Gap Information Act 2021* (20/2021), ss. 2 to 4

Irish Human Rights and Equality Commission Acts 2014 and 2021: this Act is one of a group of Acts included in this collective citation to be construed together as one (*Gender Pay Gap Information Act 2021*, s. 7(3)). The Acts in the group are:

- *Irish Human Rights and Equality Commission Act 2014* (25/2014)
- *Gender Pay Gap Information Act 2021* (20/2021)

Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

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. 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.