

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 Each of the Acts specified in *column (1)* and *column (2)* of *Schedule 1* is repealed to the extent specified in *column (3)* of that Schedule.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

- (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 1990 in 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.

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.

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) 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

Section 7

REPEALS

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

Section 35

INQUIRIES

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

Section 55

CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS¹

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 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

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.

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:

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 juriconsults 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 judges¹

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 dismissal²

- 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

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).

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.

Article 24 – Registry and rapporteurs²

- 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 Court²

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 Chamber²

- 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

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

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.

Article 27 – Competence of single judges³

- 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 committees⁴

- 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 merits¹

- 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.

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).

- 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 Chamber¹

The Grand Chamber shall

- 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 Court¹

- 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 criteria¹

- 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.
- 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 intervention¹

- 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

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).

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 case⁴

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 settlements⁴

- 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.

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

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

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 judgments¹

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

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

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.

- 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 ratification¹

- 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.

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

- 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

Section 55

INSERTION OF A SCHEDULE 6 IN ACT OF 2003

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. 2002

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

