
FEDERAL CONSTITUTION

JUDGES' CODE OF ETHICS 2009

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FEDERAL CONSTITUTION

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IN exercise of the powers conferred by Clause (3B) of Article 125 of the Federal Constitution, the Yang di-Pertuan Agong on the recommendation of the Chief Justice, the President of the Court of Appeal and the Chief Judges of the High Courts, and after consulting the Prime Minister, prescribes the following code of ethics:

PART I

PRELIMINARY

Citation and commencement

1. (1) This code of ethics may be cited as the **Judges' Code of Ethics 2009**.

(2) This Code comes into operation on 1 July 2009.

Application

2. (1) This Code is intended to state the basic standards to govern the conduct of all judges and to provide guidance to judges in setting and maintaining high standards of personal and judicial conduct.

(2) This Code shall apply to a judge throughout the period of his service.

Interpretation

3. In this Code, unless the context otherwise requires—

“son or daughter of a judge” includes—

- (a) a posthumous child and a dependent step-child of the judge; and
- (b) a child adopted by the judge under any written law relating to adoption or under any custom or usage, upon satisfactory evidence of that adoption;

“a member of the judge's family” includes—

- (a) the spouse of the judge;
- (b) a son or daughter of the judge;
- (c) a son-in-law or daughter-in-law of the judge;
- (d) any person who lives in the judge's household;
- (e) an employee of the judge; or
- (f) a close relative of the judge;

“judge” means a judge of the Federal Court, the Court of Appeal, the High Court and includes a Judicial Commissioner;

“Committee” means the Judges’ Ethics Committee established under the Judges’ Ethics Committee Act 2009 [Act].

PART II

DUTY TO COMPLY WITH CODE

Duty to comply with this Code

4. (1) A judge shall comply with the provisions prescribed in this Code.

(2) The breach of any provision prescribed in this Code shall render a judge liable to disciplinary proceedings in accordance with the provisions of this Code.

PART III

CODE OF CONDUCT

Upholding the integrity and independence of the judiciary

5. A judge shall exercise his judicial function independently on the basis of his assessment of the facts and in accordance with his understanding of the law, free from any extraneous influence, inducement, pressure, threat or interference, direct or indirect from any quarter or for any reason.

Avoiding impropriety and the appearance of impropriety in all judicial activities

6. (1) A judge shall act at all times in a manner that promotes integrity and impartiality of the judiciary.

(2) A judge shall not—

- (a) allow any relationship to influence his judicial conduct or judgment;
- (b) lend the prestige of his judicial office to advance his or others’ private interest; and
- (c) convey or permit others to convey the impression to any person that they are in a special position to influence him.

Performing judicial duties fairly and efficiently

7. (1) The judicial duties of a judge shall take precedence over all his other activities.

(2) A judge shall not participate in the determination of a case in which any member of the judge's family represents a litigant or is associated in any manner with the case.

(3) A judge shall perform his judicial duties without bias or prejudice.

(4) A judge shall dispose of all his judicial duties fairly, efficiently, diligently and promptly.

(5) A judge shall refrain from giving any public comment about a pending or impending proceedings which may be heard before the judge's court in a manner which may suggest to a reasonable person the judge's probable decision in any particular case.

(6) A judge shall not disclose or use any non-public information acquired in his judicial capacity for any purpose unrelated to his judicial duties.

(7) A judge shall endeavour to diligently and efficiently hear and complete the cases in his court and promptly write his judgments.

(8) A judge shall not conduct himself in a manner which is not befitting of a judge or which brings or is calculated to bring disrepute to his office as a judge.

Minimizing the risk of conflict with the judge's judicial obligations while conducting his extra-judicial activities

8. (1) A judge shall ensure that his extra-judicial activities do not—

(a) cast reasonable doubt on his capacity to act impartially as a judge;
or

(b) interfere with the proper performance of his judicial duties.

(2) A judge shall avoid close association with individual members of the legal profession, particularly those who practise in the judge's court, where such association might give rise to a reasonable suspicion or appearance of favouritism.

(3) A judge shall refrain from any conduct as a member of any group, association or organization or participate in any public discussion which, in the mind of a reasonable person, may undermine confidence in the judge's impartiality with respect to any issue pending before the court.

(4) A judge shall not participate in any political activities or involvement and shall refrain from any conduct which may give rise to an appearance that the judge is engaged in political activity.

(5) Subject to proper performance of his judicial duties, a judge, with the written approval of the Chief Justice, may—

(a) write, give lecture, teach and participate in activities concerning the law, the judicial system, the administration of justice and related matters;

- (b) appear at a public hearing before an official body concerned with matters relating to the law, the judicial system and the administration of justice and related matters;
 - (c) serve as a member of an official body devoted to the improvement of the law, the judicial system, the administration of justice and related matters or as a member of a body approved by the Government of Malaysia;
 - (d) write or speak publicly on non-legal subjects and engage in historical, education, cultural, religious, sporting or social and recreational activities, if such activities are not detrimental to the dignity of the judicial office or do not otherwise interfere with the performance of his judicial duties in accordance with this Code; and
 - (e) participate in civic and charitable activities that do not reflect adversely on the judge's impartiality or interference with the performance of his judicial duties.
- (6) A judge shall not be involved in charitable fund raising or membership solicitation.
- (7) A judge shall not act in a manner which brings disrepute to his office as a judge.
- (8) A judge shall not serve as the executor, administrator, trustee, guardian or in other fiduciary capacity, except for the estate, trust or person connected with a member of his family, if such service does not interfere with the proper performance of his judicial duties.
- (9) A judge shall refrain from being engaged in any financial or business dealing which may interfere with the proper performance of his judicial duties or reflect adversely on his impartiality.
- (10) A judge may receive compensation and reimbursement of expenses for his extra-judicial activities permitted by this Code, if such payments do not give the appearance of influencing him in the performance of his judicial duties or otherwise give an appearance of impropriety, provided that such compensation and reimbursement shall not exceed a reasonable amount that a person who is not a judge would receive for the same activities.

Declaration of assets

9. A judge shall, on his appointment or at any time thereafter as may be required by the Chief Justice of the Federal Court, declare in writing all his assets to the Chief Justice of the Federal Court.

Cessation of any connection with the firm

10. (1) A judge shall, on his appointment, cease to have any connection with the firm where he was practising as an advocate and solicitor prior to his appointment.

- (2) For the purpose of subparagraph (1), the judge shall—
- (a) immediately relinquish all interest in the firm;
 - (b) ensure that he has no dealing with the firm or any member of the firm; and
 - (c) ensure that his name is removed from the firm's name.

Administrative order or direction

11. A judge shall comply with any administrative order or direction issued by the Chief Justice of the Federal Court, the President of the Court of Appeal and the Chief Judges of the High Courts from time to time.

PART IV

PROCEDURE ON BREACH OF CODE

Complaint against judge

12. Any complaint against a judge who is alleged to have committed a breach of any provision of this Code shall be made in writing to the Chief Justice of the Federal Court.

Chief Justice to determine nature of breach of this Code

13. (1) Where a complaint is received under paragraph 12 and the Chief Justice is of the opinion that the complaint has no merit, he may dismiss it after consulting the President of the Court of Appeal if the judge complained of is a judge of the Court of Appeal, the Chief Judge of the High Court in Malaya if the judge complained of is a judge of the High Court in Malaya and the Chief Judge of the High Court in Sabah and Sarawak if the judge complained of is a judge of the High Court in Sabah and Sarawak.

(2) If the Chief Justice is of the opinion that the breach does not warrant the judge be referred to a tribunal appointed under Clause (4) of Article 125 of the Federal Constitution, the Chief Justice may refer the matter to the Committee.

Disciplinary procedure

14. (1) If it is determined under paragraph 13 that a judge be referred to the Committee, the Committee shall—

- (a) inform the judge in writing of the facts of the alleged breach of this Code; and
- (b) give the judge an opportunity to make a written representation within a period of thirty days from the date he is informed of the alleged breach.

(2) If, after considering the judge's representation, if any, the Committee finds that—

- (a) there is no merit in the complaint, the Committee shall dismiss the complaint and notify the complainant and the judge of its decision; or
- (b) there is merit in the complaint, invite the judge to appear before the Committee to be heard if he so desires.

(3) If, after due consideration of the representation made by the judge who appears before the Committee pursuant to subparagraph (2)(b), the Committee is satisfied that—

- (a) the breach is proven, the Committee may impose on the judge any one of the sanctions specified in paragraph 16 as it deems appropriate; or
- (b) the breach is not proven, the Committee shall dismiss the complaint.

(4) If—

- (a) the judge does not make any representation within the time specified in subparagraph (1)(b) or within such extended time as may be allowed by the Committee;
- (b) the judge made such representation but the representation is not satisfactory to the Committee; or
- (c) the judge does not appear before the Committee pursuant to subparagraph (2)(b),

the Committee shall then proceed to consider and decide on the sanction to be imposed on the judge as specified in paragraph 16.

Right to be represented

15. A judge who is the subject of a disciplinary proceedings under this Code is entitled to be represented by an advocate and solicitor if he so desires.

PART V

SANCTION

Types of sanction

16. If the Committee is satisfied that the complaint is proven, the Committee may impose any one of the following sanctions:

- (a) the recording of an admonition to the judge; or
- (b) the suspension of the judge from his office for such period not exceeding one year.

PART VI

MISCELLANEOUS

Service of notice, document, *etc.*

17. Any notice, document or communication left at or posted to or sent by any other reasonable means to the last-known address of the judge shall be deemed to have been duly served or communicated to the judge.

Signatures on letters and other correspondence

18. Any correspondence between the Committee and the judge under this Code shall be signed by the Chairman of the Committee or any person authorized by him.

Revocation

19. The Judges' Code of Ethics 1994 [*P.U. (B) 600/1994*] is revoked.

Made 24 June 2009
[PMT/UU/44-4(R); PN(PU²)171D]

By Command

TAN SRI MOHD SIDEK BIN HJ. HASSAN
Secretary to the Cabinet