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**Tun Dato' Seri Zaki Tun Azmi**  
**Chairman**  
**Judicial Appointments Commission**

# Message from the **CHAIRMAN**

Assalamu'alaikum Warahmatullahi Wabarakatuh and Salam Sejahtera,

The Judicial Appointments Commission (JAC) has just completed its second year of operation since its establishment on 2 February 2009. As is required by the Judicial Appointments Act 2009 (Act 695), JAC has continued its effort to become a body that is truly transparent in the performance of its primary duties in the selection, appointment and promotion of judges.

In an effort to strengthen its role and function, the JAC had recommended to the Government to amend section 3 of the Judicial Appointments Commission Act 2009 (Act 695) to include the appointment of a Judicial Commissioner as part of its functions. This was done by inserting the term Judicial Commissioner in the definition of a Superior Court Judge. This amendment is consistent with the requirements of subsection 1(3) of the Act which is clearly the intention of the Government when drafting this Act so that it applies also to the appointment of a Judicial Commissioner. The Judicial Appointments Commission (Amendment) Bill 2010 was approved on 12 July 2010 by the House of Representatives and on 2 August 2010 by the Senate. The JAC (Amendment) Act 2010 [Act A1383] was gazetted and became effective on 1 November 2010. This is the progress made by the JAC in 2010. It is the first step in a series of improvements to be implemented so as to ensure that appointed judges will be those who are properly qualified under the selection criteria set out under section 23 of the Act.

Throughout 2010, the JAC held 12 ordinary meetings as prescribed under section 13 of the Act while there were four (4) Selection Meetings for the selections of Judges of the Federal Court, the Court of Appeal and the High Court. The selections were carried out by way of secret ballots to ensure that there was independence of judgment on the part of every member of the JAC. Other matters discussed in those meetings included the steps taken by the Judiciary in its effort to increase the performance of the courts in disposing the backlog of cases.

Finally, I would like to thank all officers and staff of the Office of the Secretary of the JAC who had carried out their duties and responsibilities with dedication and commitment throughout the year under review.



**TUN DATO' SERI ZAKI TUN AZMI**



# Introduction

The background of the slide is a solid brown color. On the left side, there is a vertical strip of a lighter brown color. Overlapping this strip and extending towards the right are several horizontal and vertical white lines that form a grid. In the lower-left quadrant, there is a square with a white border. To the right of this square, there are several overlapping, wavy, horizontal lines in shades of brown, creating a sense of movement or a stylized landscape feature.



# Members of the Commission

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The Judicial Appointments Commission (the JAC) was established on 2 February 2009. The present members are as follows:

- (a) Tun Dato' Seri Zaki Tun Azmi, Chief Justice of the Federal Court (Chairman);
- (b) Tan Sri Dato' Seri Alauddin Dato' Mohd Sheriff, President of the Court of Appeal;
- (c) Tan Sri Arifin Zakaria, Chief Judge of Malaya;
- (d) Tan Sri Datuk Seri Panglima Richard Malanjum, Chief Judge of Sabah and Sarawak;
- (e) Tan Sri Dato' Zulkefli Ahmad Makinudin, Federal Court Judge;
- (f) Tun Dato' Seri Abdul Hamid Hj. Mohamad, former Chief Justice of the Federal Court;
- (g) Dato' Seri Ainum Mohamed Saaid, former Attorney General of Malaysia;
- (h) Tan Sri Datuk Wira Dr. L.C. Vohrah, former Judge of the International Criminal Tribunal; and
- (i) Tan Sri Datuk Amar Steve Shim Lip Kiong, former Chief Judge of Sabah and Sarawak.

The first four (4) members are appointed by reason of their current portfolios in the judiciary and the other five (5) members are appointed by the Prime Minister in accordance with the requirements of the Judicial Appointments Commission Act 2009 (Act 695). The current appointments expire on 9 February 2011.

# Members of the Judicial Appointments Commission



Justice Tun Dato' Seri Zaki Tun Azmi



Justice Tan Sri Dato' Seri  
Alauddin Dato' Mohd Sheriff



Justice Tan Sri Arifin Zakaria



Justice Tan Sri Datuk Seri  
Panglima Richard Malanjum



Justice Tan Sri Dato'  
Zulkefli Ahmad Makinudin



Tun Dato' Seri  
Abdul Hamid Hj. Mohamad



Dato' Seri  
Ainum Mohamed Saaid



Tan Sri Datuk Wira  
Dr. L.C. Vohrah



Tan Sri Datuk Amar  
Steve Shim Lip Kiong



**The functions and powers of the JAC as provided under Act 695 are as follows:**

- to select suitably qualified persons who merit appointment as judges of the superior courts for the Prime Minister's consideration;
- to receive applications from qualified persons for the selection of Judges to the superior courts;
- to formulate and implement mechanisms for the selection and appointment of judges of the superior courts;
- to review and recommend programmes to the Prime Minister to improve the administration of justice;
- to make other recommendations about the judiciary; and
- to do such other things as it deems fit to enable it to perform its functions effectively or which are incidental to the performance of its functions under the Act.

The JAC continues to pursue its statutory objectives and lays emphasis on improving the transparency of the selection of qualified persons for appointment to the superior courts and to assist in improving the administration of justice.

The JAC is supported by its Secretariat currently headed by Mdm. Hamidah Khalid as Secretary. She is assisted by 12 staff members. The Office of the Secretary's functions and programmes for the year 2010 are detailed in **Appendix 1**.

# Amendment of Act 695 by Act A1383

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Until the Amendment Act, Act A1383, came into force on 1 November 2010, the appointment of a Judicial Commissioner was outside the scope of the JAC.

In order to streamline the appointment of a Judicial Commissioner with that of a High Court Judge, the JAC initiated a proposal resulting in that amendment; the selection of a qualified person as a Judicial Commissioner is now also within the competence of the JAC.

## LAWS OF MALAYSIA

### Act A1383

#### JUDICIAL APPOINTMENTS COMMISSION (AMENDMENT) ACT 2010

An Act to amend the Judicial Appointments Commission Act 2009.

[ ]

#### Short title and commencement

1. (1) This Act may be cited as the Judicial Appointments Commission (Amendment) Act 2010.

(2) This Act comes into operation on a date to be appointed by the Prime Minister by notification in the *Gazette*.

#### Amendment of section 3

2. The Judicial Appointments Commission Act 2009 [Act 695] is amended in section 3 in the definition of “judges of the superior courts”, by inserting after the word “means” the words “judicial commissioners,”.



# Evaluation Criteria

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In order to enable it to carry out its selection function with the level of transparency which is contemplated under the law, the JAC formulated guidelines on the qualities of a qualified person to be selected. The need for carefully articulated criteria in this matter cannot be over emphasised both from the viewpoint of the selecting and appointing authorities as well as the interest of the public. These evaluation criteria will be continually reviewed.

The evaluation criteria are grounded on the consideration that the public interest in improving the quality of our judicial system is best served by merit selection.

The criteria are designed to ensure that selected persons have the intellectual capacity, the efficiency and personal qualities which would enable them to resolve disputes impartially and decide solely upon the facts of the cases and the law. These criteria need to be rigorous, both in their articulation as well as in their application in the selection process.

The selection criteria can be considered as the minimum required criteria and the use of any of the criteria may vary according to the appointment to be considered. The requirements of any one position might require a different emphasis. The skills required by a trial judge differ from that required of a judge of appeal. This is the norm except in the case of the criterion of integrity which importance cannot be overemphasised.

The JAC considers as the minimal essential qualities for successful performance of the judicial function to include integrity, legal knowledge and ability, professional experience, judicial temperament, diligence, health, financial responsibility, a sense of public service and certain special qualities.

These evaluation criteria are better amplified in the document entitled “Evaluation Criteria for Selection of Qualified Persons for Appointment as Superior Court Judges” which is attached as **Appendix 2**.

# Meetings Of The JAC

The JAC is required under Act 695 to meet at least once a month at a place to be determined by the Chairman of the Commission. In the year 2010, a total of 12 meetings were held as follows:

**Table 1: Meeting Schedule of the Judicial Appointments Commission Year 2010**

NO.	MONTH	DATE	VENUE
1.	January	22 January (Friday)	Meeting Room, Shah Alam High Court Complex, Selangor
2.	February	19 February (Friday)	Meeting Room of the Chief Justice, Level 5, Istana Kehakiman, Putrajaya
3.	March	18 March (Thursday)	Meeting Room, Level 2, Annexe Building, Penang High Court, Penang
4.	April	22 April (Thursday)	Meeting Room of the Chief Justice, Level 5, Istana Kehakiman, Putrajaya
5.	May	20 May (Thursday)	Conference Room, Kuching High Court Complex, Sarawak
6.	June	18 June (Friday)	Meeting Room of the Chief Justice, Level 5, Istana Kehakiman, Putrajaya
7.	July	22 July (Thursday)	Meeting Room, Johor Bahru High Court Complex, Johore
8.	August	10 August (Tuesday)	Meeting Room of the Chief Justice, Level 5, Istana Kehakiman, Putrajaya
9.	September	24 September (Friday)	Meeting Room of the Chief Justice, Level 5, Istana Kehakiman, Putrajaya
10.	October	7 October (Thursday)	Meeting Room of the Chief Justice, Level 5, Istana Kehakiman, Putrajaya
11.	November	12 November (Friday)	Meeting Room of the Chief Justice, Level 5, Istana Kehakiman, Putrajaya
12.	December	10 December (Friday)	Meeting Room of the Chief Justice, Level 5, Istana Kehakiman, Putrajaya



Four (4) of the 12 meetings were also selection meetings at which suitably qualified persons were selected for consideration for appointment as judges to the superior courts.

In accordance with the procedure adopted by the JAC, each selection was reported to the Prime Minister together with information on the number of votes carried. Also included in the report was the biodata of the selected person together with the bases of selection by the JAC.



Commissioners discussing during a Selection Meeting for Judges of the Superior Court at the High Court in Penang

Following these selections, the number of appointments of judges to the superior courts made in the year 2010 is as follows:

**Table 2: Appointments to the Superior Court in Year 2010**

Appointment to the Courts in Year 2010	No. of Appointments
Federal Court	-
Court of Appeal	4
High Court	18
High Court (Judicial Commissioner)	12*
Total	34

*\*The appointments of Judicial Commissioners were made before Act A1383 came into force.*

The names of the persons so appointed including their prior employment are detailed in **Appendix 3**.



Judges of the Court of Appeal and High Court pose for a photograph with Seri Paduka Baginda Yang Di-Pertuan Agong after receiving their Letters of Appointment on 14 April 2010



Judges of the High Court pose for a photograph with Seri Paduka Baginda Yang Di-Pertuan Agong after receiving their Letters of Appointment on 9 August 2010



In the course of its meetings, the JAC visited the Shah Alam High Court on 22 January 2010, the Penang High Court on 18 March 2010, the Kuching High Court on 20 May 2010 and the Johor Bahru High Court on 22 July 2010. The purpose of these visits was to look at the innovative programs and improvements implemented by the Judiciary.

At each of these visits, the JAC was briefed by the relevant managing judge and the High Court Judge on their current programme on case management, primarily to deal with delays in the disposal of cases.



The Commissioners being briefed on the implementation of CRT at the Shah Alam High Court



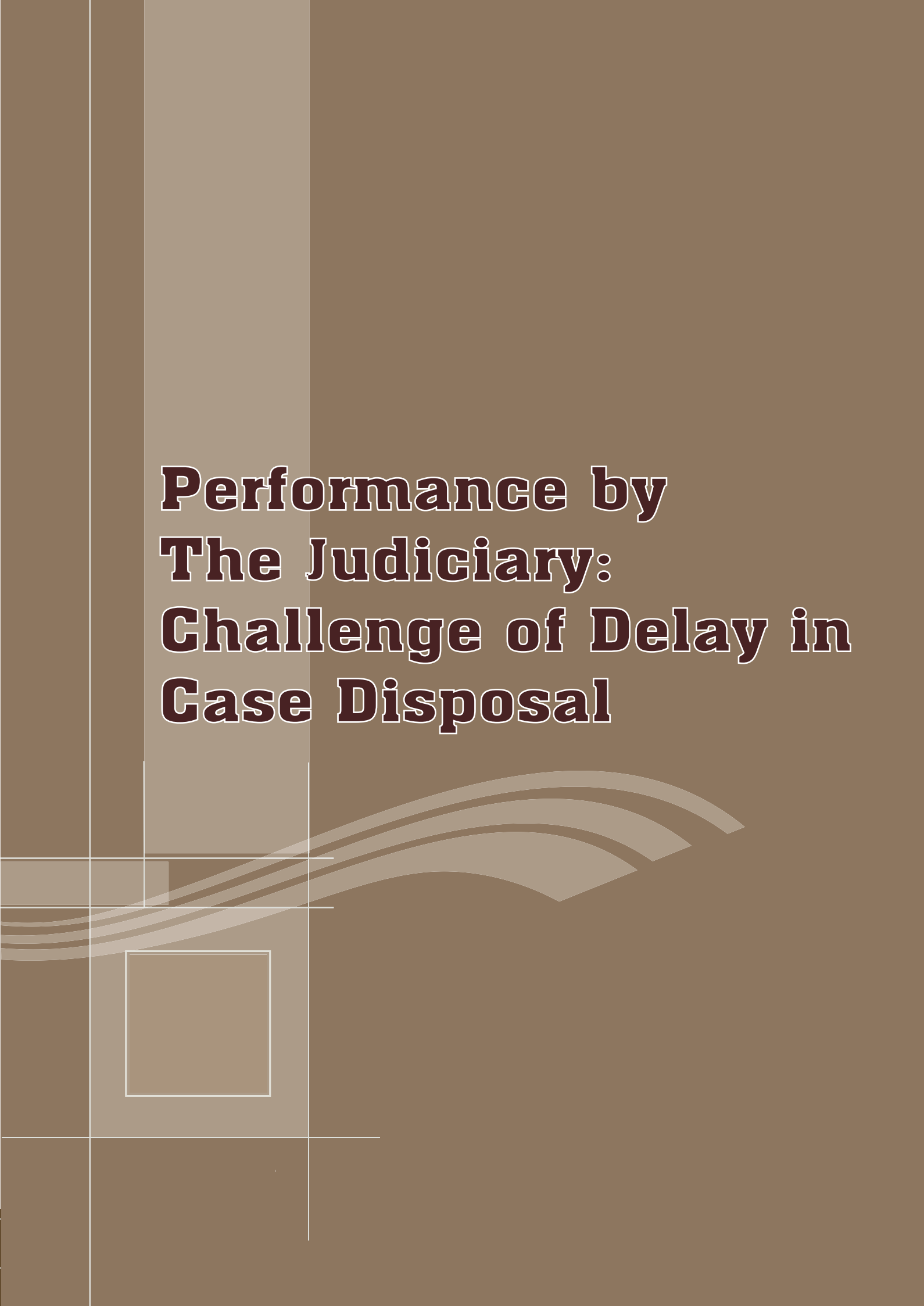
A briefing by Justice Tan Sri James Foong Cheng Yuen, Federal Court Judge to members of the Commission at the Penang High Court



The Commissioners being briefed on the Case Information Kiosk at the Kuching High Court



Briefing at the Registry of the Johor Bahru High Court



# **Performance by The Judiciary: Challenge of Delay in Case Disposal**



The JAC is regularly kept informed on steps taken by the Judiciary to improve the administration of justice. The JAC agrees with the Judiciary that priority and emphasis be given to the need to resolve the problem of delay in case disposal by the courts. This delay has also resulted in a backlog of cases.

The status of civil and criminal cases pending in the High Courts, Sessions Courts and Magistrates' Courts as at 1 January 2009 is as follows:

**Table 3: Status of Civil and Criminal Cases Pending at all Courts**

Court	Case	Cases pending as at 1 January 2009
High Court	Civil	93,523
	Criminal	4,544
Sessions Court	Civil	94,554
	Criminal	8,750
Magistrate's Court	Civil	156,053
	Criminal	65,221

To meet the problem of delay and backlog of cases, the Judiciary has taken the steps enumerated in the paragraphs following.

### **Increasing the number of Judicial Commissioners**

In the year 2009, 30 Judicial Commissioners were appointed compared with six (6) in the preceding year 2008. Following a reduction in the backlog of cases, there were only 12 appointments in 2010.

### **Improving Case Management**

Managing Judges have been appointed to improve, amongst others, administration and management of the High Courts and Subordinate Courts. The current Managing Judges are as listed in Table 4 as follows:

**Table 4: List of Managing Judges**

No.	Managing Judge	State
1.	Justice Tan Sri Arifin bin Zakaria	Pahang, Terengganu and Kelantan
2.	Justice Tan Sri Dato' Zulkefli bin Ahmad Makinudin	Kuala Lumpur (Criminal) and Selangor (Criminal; Lower Courts – Civil)
3.	Justice Tan Sri James Foong Cheng Yuen	Kuala Lumpur (Civil) and Penang
4.	Justice Dato' Seri Md. Raus bin Sharif	Kuala Lumpur (Commercial), Negeri Sembilan, Malacca and North Johore
5.	Justice Dato' Abdull Hamid bin Embong	Shah Alam (High Court - Civil) and Perak
6.	Justice Datuk Suriyadi bin Halim Omar	Kedah and Perlis
7.	Justice Datuk Ramly bin Haji Ali	South Johore

Since February 2009, case management is centrally performed by the Court Registrar and his Deputies at the registry level and is reported to the relevant managing judge. An individual judge does not personally manage his case. Generally this helps to eliminate or reduce preliminary issues, including the disposal of interlocutory applications, allowing for the hearing of cases to be expedited once commenced.

Case management in the High Courts also employs a Tracking System. This was implemented starting with the Kuala Lumpur High Court on 1 February 2009. The Tracking System dedicates a track, the Affidavit Track (the A-Track) to manage cases which involve interlocutory applications and affidavit evidence. Another track, the Trial Track (the T-Track) is dedicated for cases based on oral evidence. Implementation of this system has expedited the trial process as it allows judges to focus on the cases fixed for trial, preliminary issues having been resolved at the case management phase.

Delay in case disposal has resulted in a negative public perception that postponements have generally been granted by the courts without due care. Managing Judges are careful to ensure that henceforth postponements would be granted only in very selected cases and for cogent reasons.

In addition, regular and more frequent visits by senior judges have served to remind court officers and staff members of their responsibilities. This is important in fostering a more positive and productive work culture.



## **The e-Court System**

To improve the delivery system to the public and expedite the disposal of cases, the Judiciary introduced the e-Court system in the year 2009. This system comprises three (3) applications as follows:

(i) The Case Management System (the CMS)

This is an integrated system for management of cases, it provides for the detection of files, scheduling of trials and retrieval of statistics for the better management, reporting as well as monitoring of cases;

(ii) The Queue Management System (the QMS)

This is a system developed to manage the daily scheduling and waiting time for cases which are fixed for hearing. This information is important for lawyers and members of the public in dealing with their cases before the courts; and

(iii) The Court Recording and Transcription System (the CRT)

This is a real-time digital audiovisual recording system which assists a presiding judge in recording court proceedings. Among other benefits, this system is designed to enable the judge to better focus on the proceeding of the court rather than be burdened by also having to manually record such proceeding in handwritten form.

## **Creation of Special Courts**

Courts have been specially designated to deal with specific types of cases in order to expedite disposal. There are now courts dealing with commercial cases, muamalat cases, the family law matters, intellectual property matters, motor claims cases and corruption cases.

## **Special Facilities in the Kuching High Court to Improve Delivery**

The Kuching High Court has an electronic case information kiosk, the CARE Kiosk, which use began in September 2010 to provide information for lawyers and the public on the time and venue for cases set for trial. It also uses, since March 2010, the Radio Frequency Identification System (RFID) to manage its 2,000 active files. In its technology court, the High Court Kuching makes available, video conferencing facilities for mentions of civil cases and hearing of interlocutory matters in civil cases where parties involved are in Kuching, Bintulu, Miri and Sibul.

## Review of Relevant Laws

The Judiciary continues to look at areas of the law to facilitate the admission of evidence, simplifying procedures and accelerating the disposal of cases. Relevant laws have been reviewed and amended accordingly. These amendments involve a wide range of processes in both civil and criminal cases. The aforementioned amendments are to the Criminal Procedure Code (Act 593), the Subordinate Courts Act 1948 (Act 92) and combining the procedures of the High Court and Subordinate Courts.

Act 593 is amended by the Criminal Procedure Code (Amendment) Act 2010 in the areas relating to the pre-trial and trial process. In relation to the pre-trial process, the amendment introduces a new chapter XVIII A into Part VI of Act 593, which contains six (6) new sections 172A, 172B, 172C, 172D, 172E and 172F. This new chapter seeks to shorten the trial period and to expedite the disposal of criminal trials. With regard to the trial process, sections 173, 176, 402A, 413, 426, 432 were amended whilst new sections 183A, 254A, 402B, 402C and 407A were introduced. The amended sections are aimed at, among others, overcoming the backlog of cases pending in the criminal courts and promoting the expeditious disposal of criminal cases.

Amendment to Act 92 is contained in the Subordinate Courts (Amendment) Act 2010. This Act, among others, provides increased civil jurisdiction in the Sessions Courts and Magistrates' Courts. The civil jurisdiction of Sessions Courts has been increased by amendment to section 65 as follows:

- (i) increase in monetary jurisdiction from RM250,000.00 to RM1,000,000.00; and
- (ii) jurisdiction to try all actions and suits of a civil nature for the specific performance or rescission of contracts or for cancellation or rectification of instruments, within jurisdiction of the Sessions Court.

As for the Magistrate's Court, amendment to section 90 has increased its monetary jurisdiction from RM25,000.00 to RM100,000.00.

## Alternative Method of Dispute Settlement

As an added measure to help early disposal of cases, the Judiciary now offers court-assisted mediation as an alternative method of dispute settlement. It has been well received. This method of dispute settlement is suitable when it involves only a monetary claim and especially so in cases of road accidents. This process of mediation is informal, voluntary, private and is assisted by the court towards the resolution of civil cases as an alternative to the formal court process. This method has been found to save time and costs for all parties involved. This process has been successfully implemented in the High Courts in Shah Alam, Selangor; Penang; Kuching, Sarawak; Johor Bahru and Muar, Johore.



### **Earlier Court Sitzings**

Beginning 1 July 2010, the official times for commencement of court sittings have been brought earlier from 9.00 am to 8.30 am for the High Courts, Sessions Courts and Magistrates' Courts, and from 9.30 am to 9.00 am for the Court of Appeal and the Federal Court, increasing hearing time in all the courts.

### **Reorganising Files and Updating the Number of Registered Cases**

This process has been carried out in all court file rooms. All files have been reorganised to ensure that the files are arranged and organized according to specific categories to facilitate retrieval.

### **Frequent Meetings by the Chief Justice with Agencies that Deal with the Courts**

This approach allows each of these agencies to understand the needs of the courts to enable them to effectively support any court action. This forum also facilitates inter-agency cooperation in matters relating to court procedures. The agencies involved are the Bar Council, the Attorney General's Chambers and government departments such as the Department of Chemistry, the Ministry of Health, the Road Transport Department, the Royal Malaysian Police, Bank Negara Malaysia and the Securities Commission.

### **Resolution of Challenges**

As a result of the remedial steps taken by the Judiciary, the backlog of cases has been substantially reduced.

Based on Table 5, in respect of cases at the High Court, there was an 85.0 percent reduction of cases carried forward (backlog) from 2008. Simultaneously, the High Court disposed of 72.2 percent of the cases registered between January 2009 and June 2010.

In respect of criminal cases at the High Courts, Table 5 shows an impressive 90.0 percent reduction of cases carried forward (backlog) from 2008. At the same time, 48.0 percent of the cases registered between January 2009 and June 2010 was disposed of within a relatively short period of time.

Table 5: Disposal of Cases (Backlog and Current)

Courts	Type of Case	No. of Cases Brought Forward (Backlog) from 2008	No. of Cases Registered (January 2009 - June 2010)	Total No. of Cases Disposed (January 2009 - June 2010)	Balance of Cases Brought Forward (Backlog) from 2008	Balance of Cases Registered (January 2009 - June 2010)	Percentage of Reduction of Cases Brought Forward (Backlog) from 2008  $= (b - e/b)100$	Percentage of Reduction of Cases Registered (January 2009 - June 2010)  $= (c - f/c)100$
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
High Courts	Civil	93,523	109,597	158,977	13,621	30,522	85.0%	72.2%
	Criminal	4,544	5,954	7,118	462	3,095	90.0%	48.0%
Sessions Courts	Civil	94,554	220,699	254,026	10,655	47,186	89.0%	79.0%
	Criminal	8,750	46,597	46,643	2,760	5,996	68.5%	87.1%
Magistrates' Courts	Civil	156,053	469,013	543,042	1,343	69,712	99.1%	85.1%
	Criminal	65,221	210,416	233,055	10,885	83,814	83.3%	60.2%

### Improving Court Administration

Among the improvements made by the courts in the year 2010 is the shortening of time for the issuance of draft orders, from three (3) months to four (4) days. In addition, complaints received are also dealt with expeditiously. In respect of execution of orders, the time has now been reduced to one (1) week. A joint petition for divorce is now heard within 14 days of filing compared to one (1) month previously.



## Closure of Courts

As a result of the various improvements achieved by the Judiciary since 2009, the following courts have been closed:

**Table 6: Courts Closed in the Year 2010**

State	Courts Closed	Number Closed
Kuala Lumpur	Magistrates' Court	2
	Court of Appeal and Special Powers A judge will assist the Old Commercial Court (OCC)	-
	Old and New Commercial Courts; two (2) OCC was closed in November 2010	-
	Other Judges of the OCC will be transferred to the New Commercial Courts (NCC) in stages	
Penang	Georgetown Magistrates' Court	1
	Butterworth Magistrates' Court	1
Selangor	Bangi Magistrates' Court	1
Pahang	After disposing of the backlog of cases, the Sessions Judge now assists in Temerloh	-
	After disposing of the backlog of cases, the High Court Judge now assists in Kuantan	-
Sarawak	Sibu High Court	1
	Miri Magistrates' Court	1
Sabah	Kota Kinabalu Sessions Court	2
	Sandakan Magistrates' Court	1

## Future Improvement

The improvements thus far need to be continually assessed and reviewed to ensure sustainability.

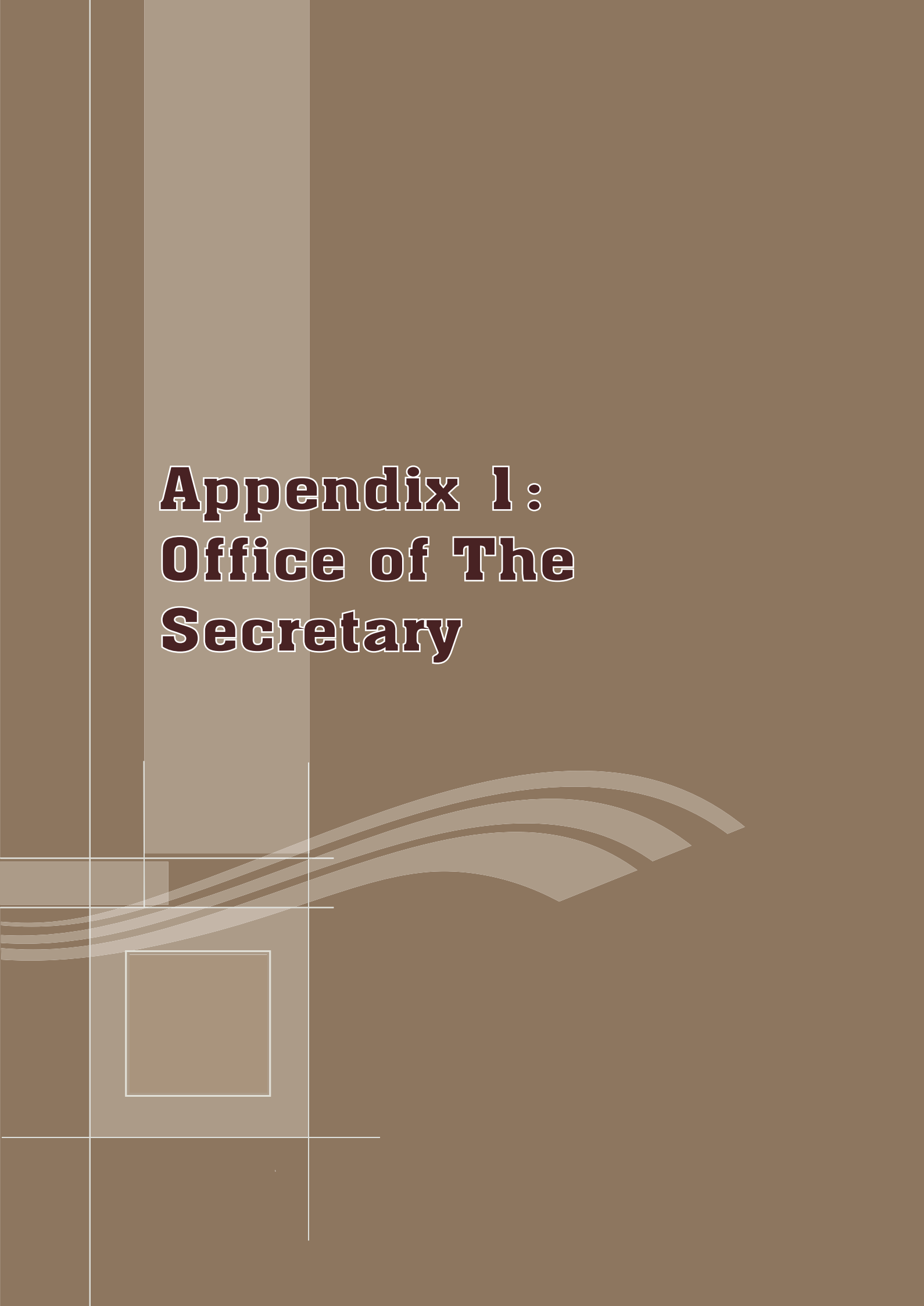
Now that much of the problem of delay in case disposal has been dealt with, it would be beneficial and timely for the Judiciary to supplement that achievement by paying more attention to the question of the capabilities of judges. To this end, the JAC will expend every effort to help improve judicial performance.

As is true for the case of any institution, the question of improving performance has many facets. For the Judiciary, the method of selection of judges, their training and exposure are important areas that impact on performance. Whatever methods and instruments are used by other institutions, including foreign institutions, they can also be applied where appropriate to our judges and judicial officers as long as we are cautious of the propriety of the matter. Obviously, the holistic approach involving an objective and balance assessment is absolutely essential.





# **Appendix 1: Office of The Secretary**





# FUNCTION

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## Appointments

- managing the appointment of members of the Judicial Appointments Commission under subsection 5(1)(e) and (f) of the Judicial Appointments Commission Act 2009;
- processing proposals and applications for selection and appointment of judges of the superior court;
- preparing all meeting documents;
- implementing the decisions of the Commission;
- preparing the schedule for Commission Meetings / Commission Meetings (Appointment of Judges);
- preparing the annual report;
- undertaking research for the improvement of the administration of justice;
- preparing memoranda and meeting feedback to the Cabinet; and
- developing and maintaining the Judicial Appointments Commission web site.

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## Management

- Human Resource Management
- Financial Management

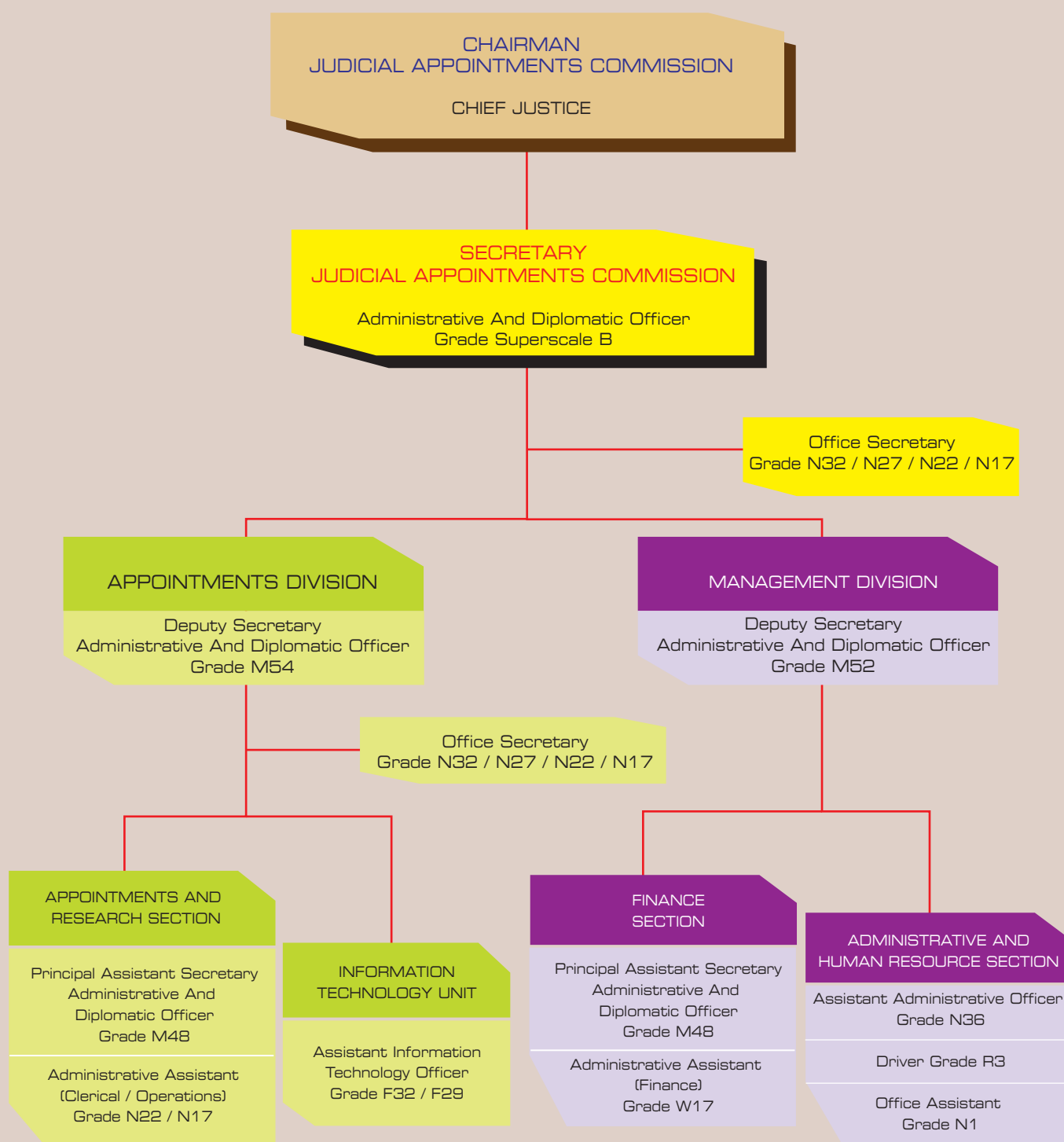
In 2010, the financial allocation managed by the Office of the Secretary totalled RM2,427,600.00. The breakdown of the allocation received is as follows:

### Financial Allocation of the Office of the Secretary

Subject	Total (RM)
Emoluments	1,168,800
Supply and Services	1,257,800
Contribution	1,000
Total	2,427,600



## ORGANISATION CHART OFFICE OF THE SECRETARY



# ACTIVITIES THROUGHOUT THE YEAR 2010

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In 2010, apart from carrying out those duties determined by the JAC as provided for in Act 695, the Office of the Secretary also carried out the following activities:

- (a) Preparation of the Judicial Appointments Commission Meeting Guide for the Secretariat as a guide for the secretariat in managing Commission meetings which are held at least once a month as provided under subsection 13(1) Judicial Appointments Commission Act 2009 (Act 695).
- (b) Researching and reviewing, together with other agencies, namely the Ministry of Finance, the Public Service Department, the Attorney General's Chambers and the Office of the Chief Registrar of the Federal Court, the remuneration of judges in relation to the pension of superior court judges.
- (c) Preparation of the Comprehensive Plan for Human Resource Management of the Judicial Appointments Commission as a basic guide in the management of workforce quality and competence.
- (d) Creation of the Innovation Unit in accordance with the instructions of the Director General of the Malaysian Administrative Modernisation and Management Planning Unit (MAMPU), in a letter ref. no. MAMPU. BIP.100-1/1 (23) on 29 January 2010 which aims to enable the formulation of programs to increase innovation and creativity as well as implementing them in a more organised and systematic way. Establishment of the Innovation Unit was made without any addition to staff by harnessing existing resources. The Innovation Unit has been put under the Appointments Section. It is headed by a PTD Officer Grade M48 and is assisted by an Administrative Assistant (Clerical / Operation) Grade N17. In conjunction with the creation of the Innovation Unit, the Steering Committee on Innovation has also been established to spearhead a culture of innovation in the JAC.
- (e) Preparation of a new Client Charter, following a directive from MAMPU to ensure that for each charter performance can be measured and reported in the department website on a regular basis from time to time.
- (f) Issuance of Letters of Instruction from the Secretary of the Judicial Appointments Commission as an administrative and management tool.



- (g) Improving the functionality of the JAC website by developing features to allow qualified persons to apply as Judicial Commissioners.
- (h) Jointly organising with the Office of the Chief Registrar of the Federal Court, a judicial seminar entitled "Seminar on Mediation With Judge John Clifford Wallace" on 30 September to 2 October 2010 at the Puteri Pacific Hotel, Johor Bahru.

This seminar was attended by High Court Judges, Sessions Court Judges, Magistrates, Deputy Registrars and Senior Assistant Registrars from the states of Johore and Malacca. The invited speaker of this seminar was Judge John Clifford Wallace, Senior Judge of the United States Court of Appeal for the Ninth Circuit, California.



Judge John Clifford Wallace addressing participants of the seminar



The Chief Judge of Malaya with the Managing Judges at the seminar

A total of five (5) discussion papers were presented during the seminar, as follows:

- (i) Challenges In Implementing Practice Direction No. 5 of 2010;
- (ii) Lawyers: How Can Lawyers Assist In Implementing Practice Direction No. 5 of 2010;
- (iii) What Is Real Mediation;
- (iv) Best Practices In Mediation; and
- (v) Court-Annexed Mediation Works Best with Case Management.



Seminar participants preparing their discussion paper

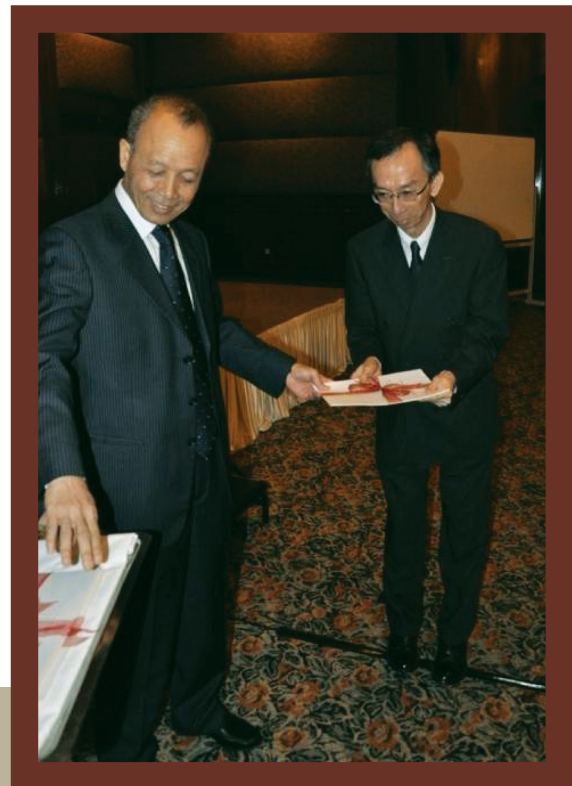


In addition, there were a total of four (4) discussion groups according to discussion topics such as the following:

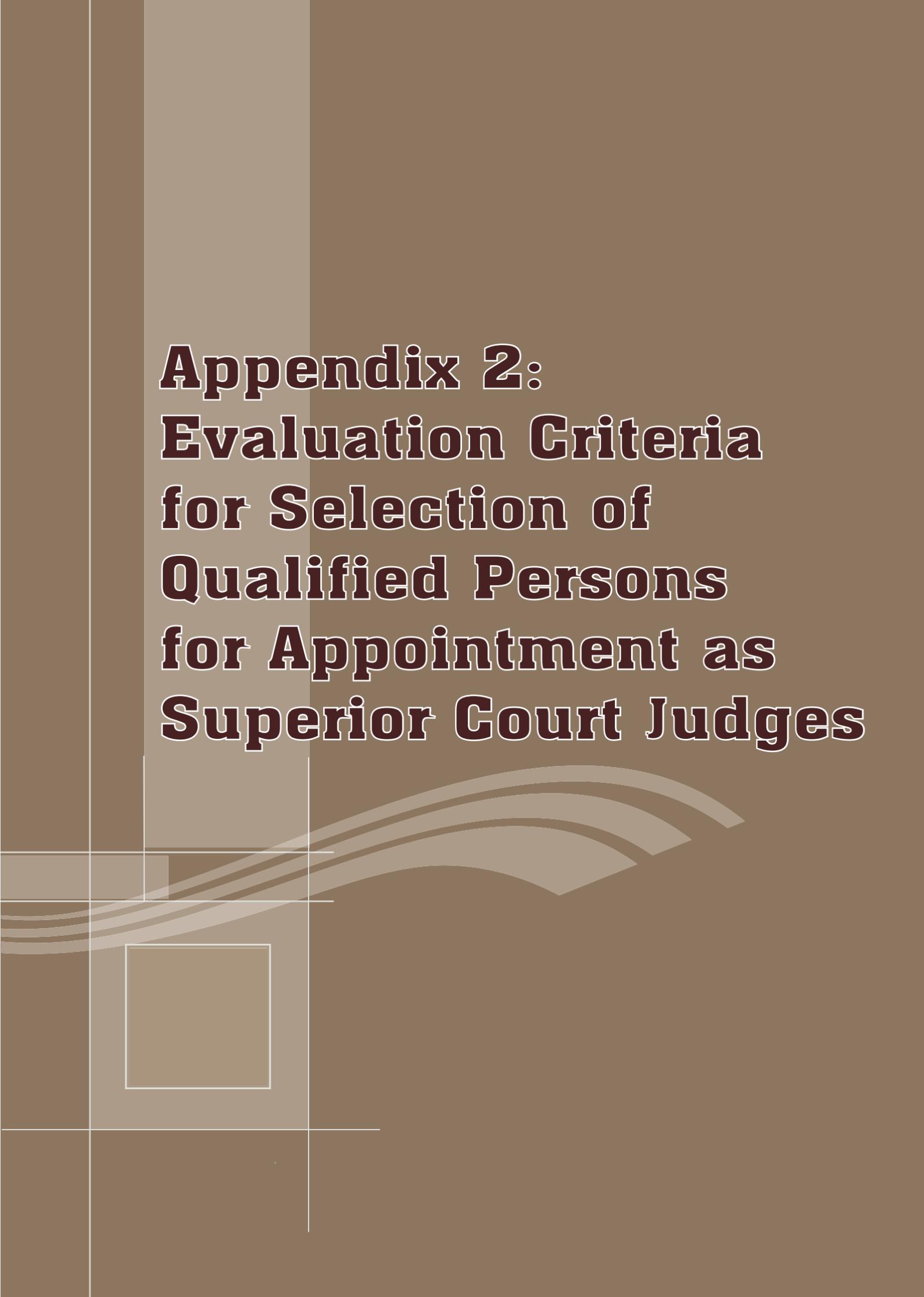
- (i) How to Implement Mediation Pursuant to Practice Direction No. 5 of 2010;
- (ii) How Lawyers and Judges Can Cooperate In Developing More Successful Practice Direction No. 5 of 2010;
- (iii) Discussion of Successful Mediation Techniques Used. How Can Mediation Be Improved?; and
- (iv) How to Develop Case Management to Increase Mediation.



Seminar participants in a discussion group



Justice Vernon Ong Lam Kiat receiving the Certificate of Participation from the Chief Judge of Malaya



**Appendix 2:  
Evaluation Criteria  
for Selection of  
Qualified Persons  
for Appointment as  
Superior Court Judges**



# JUDICIAL APPOINTMENTS COMMISSION

## Evaluation Criteria for Selection of Qualified Persons for Appointment as Superior Court Judges

1. The Evaluation Criteria is grounded on the consideration that the public interest in improving the quality of our judicial system is best served by merit selection of Judges and Judicial Commissioners.
2. The criteria are designed to ensure that candidates have the intellectual capacity, the efficiency and personal qualities which would enable them to resolve disputes impartially and decide solely upon the facts of the cases and the law. These criteria need to be rigorous, both in their articulation as well as in their application in the selection process.
3. The Evaluation Criteria is to provide the minimum criteria and the presence of each criterion may vary according to the specific appointment under consideration. The demands of the particular office may require a different emphasis. The skills for a trial judge and an appellate judge differ. This is so with the exception of integrity which importance cannot be overstated.
4. The following are considered as the minimal essential qualities for successful performance of the judicial function:

**i. Integrity:** This should be undisputed.

It should be regarded as the keystone of the judicial system. It enables a judge to base his decision strictly on the facts and the law. It enables him to disregard personalities and all other extraneous matters. Consequently this quality should be rigorously sought in any candidate to the point that it may be preferable to err on the side of caution in this investigation. A candidate must be honest, truthful and be able to admit responsibility for mistakes. Integrity is also reflected by impartiality, moral courage, intellectual honesty and obedience to the law and high ethical standards.

An examination of a candidate's personal and professional conduct should reflect adherence to these principles.

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## **ii. Legal Knowledge and Ability**

To secure successful performance of the function of a judge, a candidate should possess a sufficiently high level of knowledge of the law, substantive as well as procedural, and be able to interpret and apply the law. He should be able to communicate, both orally and in writing, his reasoning in coming to a decision. In all this, he is expected to conduct himself so as to demonstrate that he has the ability to understand the issues presented and to respond to them effectively and be able to reach a decision efficiently.

Given that legal knowledge and ability should be continually refreshed, updated and enhanced, a candidate should possess a willingness to assimilate new ideas and skills.

## **iii. Professional Experience**

Professional experience is any substantial exposure to legal problems and the judicial process. It should not refer exclusively to practising law at the Bar. The experience however should be long enough to provide a basis for the evaluation of the candidate's experience.

The extent and variety of the candidate's experience should be considered in light of the requirements of the judicial office that is being considered.

Although trial experience is desirable, other types of legal experience are relevant. Experience in government legal work, corporate legal work, in public interest bodies and as a successful law teacher and writer, for instance, are relevant and can contribute towards the desired professional experience.

## **iv. Judicial Temperament**

This quality is universally regarded as an important criterion of a judge. Qualities of judicial temperament stem from the nature of the judicial



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function. Since the function is essentially concerned with conflict resolution, it requires the ability to deal with counsel, witnesses and parties with fairness, calmness, patience and courtesy, and the willingness to hear and consider all news presented. As an arbiter, it requires a judge to be even tempered, open-minded and confident, without losing firmness. He should be willing to understand and appreciate the whole range of topics and issues that may be presented, whether he is initially familiar with them or otherwise. Underlying all these is his understanding of the importance of his role to the administration of justice and to the rights of parties and therefore he needs to overlook his personal desires in order to serve those objectives.

Factors which are incompatible with judicial temperament include arrogance, impatience, pomposity, loquacity, irascibility and arbitrariness.

#### **v. Diligence**

A candidate should have the care and earnest effort to accomplish that which he undertakes. Diligence implies good work habits and the ability to set priorities to his work.

As procedural deadlines are important in court work, a candidate should have a good record for punctuality and respect for the time of other lawyers, litigants and parties and others involved.

#### **vi. Health**

This is directed to ascertain that a candidate does not have any serious condition (physical or mental) that could affect his abilities to perform his duties as a fair and impartial judge, including any erratic or bizarre behaviour or addiction to alcohol or drugs.

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**vii. Financial Responsibility**

Financial responsibility demonstrates self-discipline and is important in predicting his ability to withstand pressures that might compromise independence.

**viii. Public Service**

A judge is required to be sensitive, compassionate and considerate. His involvement in public service can indicate his social consciousness and consideration for others.

**ix. Views on Public Issues**

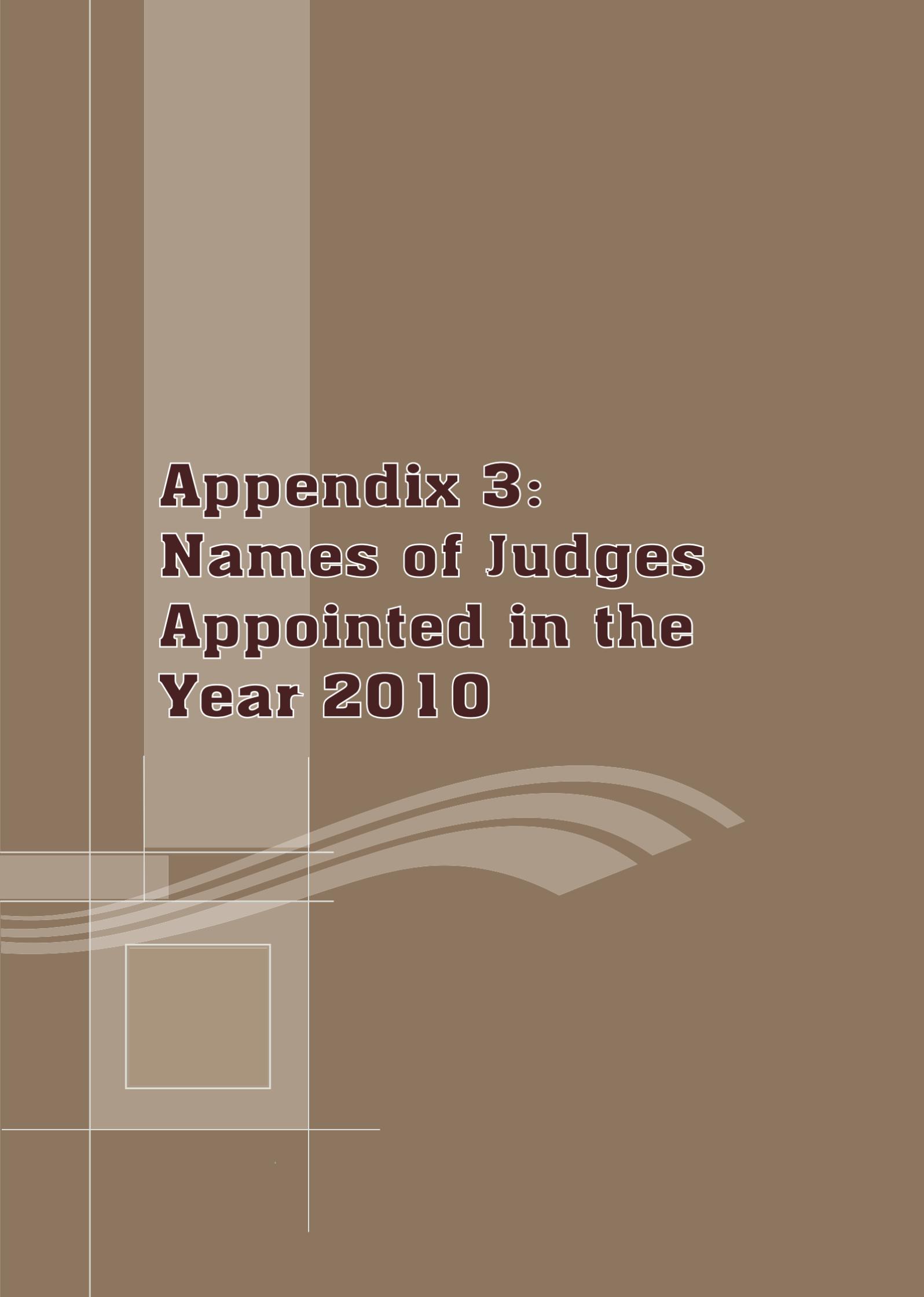
Merit selection should not preclude any person from being favourably considered on account of his opinion on public issues. However, if such opinions indicate an easily prejudiced mind, he may not be suitable for judicial office.

**x. Desirable Special Qualities**

Different courts and at different levels require judges to have special knowledge and skills. Though special knowledge and skills are desirable, it should not be overemphasized resulting in otherwise good candidates being passed over. Certainly knowledge, experience and special interest in issues of families and children would be an added advantage if the candidate is largely to deal with cases involving juveniles. For a candidate for the Appeal Court and the Federal Court, because of the collegial decision making process, it is important for the candidate to understand and respect differing opinions; also experience in scholarly research and writing on the development of the law.

5. Merit selection cannot rely solely on these criteria alone. The procedure to be employed is equally critical. Certainly a common information pool bearing on all candidates which the JAC can rely upon is indispensable.





**Appendix 3:  
Names of Judges  
Appointed in the  
Year 2010**



### Names of Judges Appointed in the Year 2010

Court	No. of Appointments	Name of the Judge Appointed	Date of Appointment	Prior Employment
Federal Court	-	-	-	-
Court of Appeal	4	1. Datuk Abdul Wahab bin Patail 2. Datuk Clement Allan Skinner 3. Dato' Hj. Mohamed Apandi bin Hj. Ali 4. Datuk Zaharah binti Ibrahim	14 April 2010 14 April 2010 14 April 2010 14 April 2010	High Court Judge High Court Judge High Court Judge High Court Judge
High Court	18	1. Dato' Mariana binti Hj. Yahya 2. Dr. Badariah binti Sahamid 3. Mr. Azman bin Abdullah 4. Dato' Hinshawati binti Shariff 5. Dato' Mohd Yazid bin Hj. Mustafa 6. Mr. Hj. Zainal Azman bin Abdul Aziz 7. Mdm. Yew Jen Kie 8. Dato' Ahmadi bin Hj. Asnawi 9. Dato' Zamani bin A. Rahim 10. Mr. Vernon Ong Lam Kiat 11. Dato' Abdul Rahman bin Sebli 12. Dato' Zaleha binti Yusof 13. Datuk Halijah binti Abbas 14. Dato' Mary Lim Thiam Suan 15. Mr. Kamardin bin Hashim	14 April 2010 14 April 2010 14 April 2010 14 April 2010 14 April 2010 14 April 2010 14 April 2010 14 April 2010 14 April 2010 14 April 2010 9 August 2010 9 August 2010 9 August 2010 9 August 2010 9 August 2010	Judicial Commissioner Judicial Commissioner Judicial Commissioner Judicial Commissioner Judicial Commissioner Judicial Commissioner Judicial Commissioner Judicial Commissioner Judicial Commissioner Judicial Commissioner Judicial Commissioner Judicial Commissioner Judicial Commissioner Judicial Commissioner Judicial Commissioner

Court	No. of Appointments	Name of the Judge Appointed	Date of Appointment	Prior Employment
		16. Mr. Yaacob bin Hj. Md. Sam	9 August 2010	Judicial Commissioner
		17. Datin Zabariah binti Mohd. Yusof	9 August 2010	Judicial Commissioner
		18. Mr. Anantham a/l VS Kasinather	9 August 2010	Judicial Commissioner
High Court – Judicial Commissioners	12	1. Mr. Mah Weng Kwai	4 January 2010	Lawyer
		2. Datuk Hasnah binti Dato' Mohamed Hashim	3 May 2010	Legal and Judicial Officer
		3. Dato' Zaki bin Haji Husin	3 May 2010	Legal and Judicial Officer
		4. Datuk Hanipah binti Farikullah	3 May 2010	Legal and Judicial Officer
		5. Mr. Mohd. Zaki bin Abdul Wahab	3 May 2010	Legal and Judicial Officer
		6. Mdm. See Mee Chun	11 May 2010	Legal and Judicial Officer
		7. Mr. Gunalan a/l Muniandy	11 May 2010	Legal and Judicial Officer
		8. Mdm. Rosilah binti Yop	11 May 2010	Legal and Judicial Officer
		9. Mr. Abdul Rahman bin Abdol	31 May 2010	Legal and Judicial Officer
		10. Mr. Samsudin bin Hassan	31 May 2010	Industrial Court Chairman
		11. Mr. Lee Swee Seng	31 May 2010	Lawyer
		12. Mr. Vazer Alam bin Mydin Meera	31 May 2010	Lawyer



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