

JUDICIARY AND COURTS (SCOTLAND) ACT 2008

EXPLANATORY NOTES

THE ACT

Schedule 1 – the Judicial Appointments Board for Scotland

Conflicts of interest

144. [Paragraph 12](#) makes very similar provision for substitute members to be appointed where a member of the Board has a conflict of interest that would make it improper for them to be involved in a particular appointment process. It is envisaged that this provision would be used where a member has a close personal relationship with one of the candidates in a particular appointment round.
145. In contrast with paragraph 11, paragraph 12(6) provides that a substitute member does not entirely replace the member who has a conflict of interest; that member may continue to sit on the Board and deal with other matters where no conflict arises. If, for example, the member with the conflict of interest is a judge of the Court of Session, the Board will seek a substitute judge member for that appointment process. There would be nothing to prevent the judge with the conflict of interest from taking part in another appointment process where there is no such conflict, or in any other business of the Board.
146. [Paragraph 12\(7\)](#) provides that a substitute member does not count as a member for the purposes of paragraph 4(1) so there is no need to make any extra lay appointment in the event that a substitute legal or judicial member is appointed, or to make an extra legal or judicial appointment if a substitute lay member is appointed.