

JUDICIARY AND COURTS (SCOTLAND) ACT 2008

EXPLANATORY NOTES

THE ACT

Schedule 1 – the Judicial Appointments Board for Scotland

Temporary members

142. **Paragraph 11** makes provision for appointing temporary members to cover periods of absence of Board members, so long as the period of absence does not exceed 6 months. There may be a number of reasons (for example, personal reasons, ill health, other work commitments) why a member is unable to discharge their functions on the Board for a period of time. Under paragraph 11(1) if the Chairing Member is satisfied that the member will be unable to discharge their functions for up to 6 months they may request that the Lord President or the Scottish Ministers appoint a temporary member. Under paragraph 11(3) and (4) the temporary member must fall into the same category as those members they are replacing. For example, if an advocate member is unable to sit on the Board for a period, the temporary member appointed in their place must also be an advocate. Paragraph 11(4)(b) requires temporary lay members to satisfy the general qualification requirements to be a lay member (see paragraph 4(2)).
143. To maintain the legal and lay balance of the Board, paragraph 11(6) makes it clear that during the period of temporary cover, the absent member is not to be counted as a member. The effect of this is that the total number of members of the Board will remain the same. There will be no need to appoint an extra lay member upon the appointment of a temporary legal or judicial member, as might otherwise be required under paragraph 4(1). Under paragraph 11(7) a temporary appointment ceases when the absent member returns or after 6 months, whichever comes first. To ensure that the work of the Board is not unduly disrupted, paragraph 11(8) enables a temporary member to continue acting as a member beyond the 6 month period to conclude any ongoing judicial appointment process with which they are involved, to be concluded. Paragraph 11(9) provides that a temporary member will be otherwise subject to all of the same provisions as apply to an ordinary member of the Board.