

**2015 No. 53**

**SCOTTISH COURT SERVICE**

**The Scottish Courts and Tribunals Service (Procedure for Appointment of Members) Regulations 2015**

<i>Made</i> - - - -	<i>4th February 2015</i>
<i>Laid before the Scottish Parliament</i>	<i>6th February 2015</i>
<i>Coming into force</i> - -	<i>16th March 2015</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by paragraph 3(2) and (3) of schedule 3 to the Judiciary and Courts (Scotland) Act 2008(a) and all other powers enabling them to do so.

In accordance with paragraph 3(4) of schedule 3 to that Act they have consulted the Lord President.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Scottish Courts and Tribunals Service (Procedure for Appointment of Members) Regulations 2015 and come into force on 16th March 2015.

(2) In these Regulations—

“the 2008 Act” means the Judiciary and Courts (Scotland) Act 2008;

“the 2014 Act” means the Courts Reform (Scotland) Act 2014(b).

**Selection for appointment**

2.—(1) The members of the Scottish Courts and Tribunals Service(c) listed in paragraph 2(2)(e) and (f) and (3)(a), (b) and (d) of schedule 3 to the 2008 Act shall be selected for appointment by a panel appointed by the Lord President.

(2) The panel shall be made up of three members of the Scottish Courts and Tribunals Service, including one judicial member and one member listed in paragraph 2(3)(d) of schedule 3 to the 2008 Act.

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(a) 2008 asp 6; relevantly amended by section 130 of, and paragraph 1 of schedule 4 to, the Courts Reform (Scotland) Act 2014 (asp 18) (“the 2014 Act”), subject to the transitional provision in paragraph 3 of that schedule.

(b) 2014 asp 18.

(c) The Scottish Courts Service is renamed as the Scottish Courts and Tribunals Service by section 130(1) of the 2014 Act. By virtue of section 130(4) of that Act, any reference in an enactment to the Scottish Court Service is, unless the contrary intention appears, to be construed as a reference to the Scottish Courts and Tribunals Service. The Courts Reform (Scotland) Act 2014 (Commencement No. 1) Order 2015 (S.S.I. 2015/012) commenced section 130 of, and parts of paragraphs 1 and 3 of schedule 4 to, the 2014 Act, for the purpose of enabling the making of regulations under paragraph 3 of schedule 3 to the 2008 Act, and the nomination of a member in accordance with such regulations.

- (3) The Lord President shall invite applications to be made to the panel by—
- (a) notifying all sheriffs of a vacancy for a member listed in paragraph 2(2)(e) of schedule 3 to the 2008 Act;
  - (b) notifying all justices of the peace of a vacancy for a member listed in paragraph 2(2)(f) of schedule 3 to the 2008 Act;
  - (c) notifying the Faculty of Advocates of a vacancy for a member listed in paragraph 2(3)(a) of schedule 3 to the 2008 Act;
  - (d) notifying the Law Society of Scotland of a vacancy for a member listed in paragraph 2(3)(b) of schedule 3 to the 2008 Act;
  - (e) advertising the vacancies for the members listed in paragraph 2(3)(a) and (b) of schedule 3 to the 2008 Act in the appropriate professional journal;
  - (f) publicly advertising the vacancies for the members listed in paragraph 2(3)(d) of schedule 3 to the Act.
- (4) An application must be in writing (including email, fax or by other electronic means which is legible and capable of being used for subsequent reference).
- (5) The panel shall consider the applications and select persons for interview.
- (6) The panel shall select persons suitable for appointment on the basis of an interview.
- (7) For the avoidance of doubt the panel may select for appointment more persons than are required to be appointed in each category of membership.
- (8) The panel shall notify the Lord President of persons selected for appointment.
- (9) Where the panel selects for appointment more persons than are required to be appointed in each category of membership they shall notify the Lord President of their order of preference for appointment.

### **Nomination for appointment**

- 3.—**(1) The Lord President shall notify—
- (a) persons holding the office of sheriff principal of any vacancy in the category of membership listed in paragraph 2(2)(d) of schedule 3 to the 2008 Act;
  - (b) persons holding the position of Chamber President in the First-tier Tribunal for Scotland and, where relevant, persons holding an office mentioned in paragraph 3(4) of schedule 4 to the 2014 Act, of any vacancy in the category of membership listed in paragraph 2(2)(g) of that schedule<sup>(a)</sup>.
- (2) Persons holding the position of sheriff principal may nominate themselves or others for appointment as the member listed in paragraph 2(2)(d) of schedule 3 to the 2008 Act.
- (3) Persons holding the position of Chamber President in the First-tier Tribunal for Scotland and, where relevant, persons holding an office mentioned in paragraph 3(4) of Schedule 4 to the 2014 Act, may nominate themselves or others for appointment as the member listed in paragraph 2(2)(g) of schedule 3 to the 2008 Act.

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(a) The office of Chamber President in the First-tier Tribunal for Scotland (“Chamber President”) is created, prospectively, by section 21 of the Tribunals (Scotland) Act 2014 (asp 10) (“the Tribunals Act”). Paragraph 1(8)(c) of schedule 4 to the 2014 Act inserts new paragraph 2(2)(g) of schedule 3 to the Judiciary and Courts (Scotland) Act 2008 (“the 2008 Act”), providing for one Chamber President to be appointed as a member of the Scottish Courts and Tribunals Service. Paragraph 3 of schedule 4 to the 2014 Act makes transitional provision. Paragraph 3(1) provides (among other things) that until all of the functions of a tribunal listed in sub-paragraph (2) are transferred to the Scottish Tribunals by virtue of section 28 of the Tribunals Act, section 61A of the 2008 Act (as inserted by section 130(2) of the 2014 Act) applies in relation to that tribunal as it applies in relation to the Scottish Tribunals. Paragraph 3(3) of schedule 4 to the 2014 Act provides that paragraph 2(2)(g) of schedule 3 to the 2008 Act applies as if the reference to the position of Chamber President includes a reference to an office mentioned in paragraph 3(4) of schedule 4 to the 2014 Act in relation to a tribunal, for so long as section 61A of the 2008 Act applies, by virtue of paragraph 3(1), to that tribunal. The offices mentioned in paragraph 3(4) of schedule 4 to the 2014 Act are: President of the Lands Tribunal for Scotland; President of the Private Rented Housing Panel; President of the Mental Health Tribunal for Scotland; President of the Additional Support Needs Tribunals for Scotland; and, President of the Tax Tribunals.

**Revocation**

4. The Scottish Court Service (Procedure for Appointment of Members) Regulations 2009<sup>(a)</sup> are revoked.

St Andrew's House,  
Edinburgh  
4th February 2015

*PAUL WHEELHOUSE*  
Authorised to sign by the Scottish Ministers

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<sup>(a)</sup> S.S.I. 2009/303.

## EXPLANATORY NOTE

*(This note is not part of these Regulations)*

These Regulations set out the procedure for the selection and nomination for appointment of members of the Scottish Court and Tribunal Service (“the SCTS”; the name of the body was changed from the Scottish Courts Service by section 130(1) of the Courts Reform (Scotland) Act 2014 (“the 2014 Act”). In terms of paragraph 3 of schedule 3 to the Judiciary and Courts (Scotland) Act 2008 (“the 2008 Act”) it is for the Lord President to appoint the members of the SCTS and for the Scottish Ministers, by regulations, to prescribe the procedure for nomination or selection for appointment.

The Lord President, the Lord Justice Clerk, the President of the Scottish Tribunals and the Chief Executive are members by virtue of their office. Regulation 2(1) provides that the sheriff, justice of the peace, advocate, solicitor and lay members are to be selected for appointment by a panel appointed by the Lord President. Regulation 2(2) provides that the panel will be made up of three members of the SCTS, which must include at least one judicial member (see paragraph 2(2) of schedule 3 to the 2008 Act) and one lay member (see paragraph 2(3)(d) of that schedule).

Regulation 3 governs the nomination of the remaining members of the SCTS, namely one sheriff principal and one holder of the position of Chamber President of the First-tier Tribunal. Until all of the functions of each of the tribunals listed in paragraph 3(2) of schedule 4 to the 2014 Act are transferred to the Scottish Tribunals by virtue of section 28 of the Tribunals (Scotland) Act 2014, paragraph 2(2)(g) of the 2008 Act (which is inserted by paragraph 1(8)(c) of schedule 4 to the 2014 Act) has effect as if the reference to the position of Chamber President includes a reference to an office mentioned in paragraph 3(4) of schedule 4. These offices are President of the Lands Tribunal for Scotland, President of the Private Rented Housing Panel, President of the Mental Health Tribunal for Scotland and President of the Tax Tribunals appointed under section 22(1) of the Revenue Scotland and Tax Powers Act 2014. Regulation 3(1) provides that the Lord President shall notify those persons eligible for nomination of their respective vacancies in the SCTS. Regulation 3(2) and (3) provide for the eligible individuals to nominate themselves or their peers for appointment.

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