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SCOTTISH STATUTORY INSTRUMENTS

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**2016 No. 244**

**Act of Sederunt (Fitness Assessment Tribunal Rules) 2016**

**Investigation**

4.—(1) The tribunal must appoint an investigating officer from a list of persons who have been nominated for that purpose by the Lord President.

(2) Such an appointment is to be made within two months of the date on which written notice is given in terms of rule 3(a).

(3) The investigating officer is to investigate the tribunal case and in so doing—

- (a) must consider the existing information relating to the tribunal case and make such further enquiries as the investigating officer considers appropriate;
- (b) may obtain and consider any documents and productions which appear to be relevant; and
- (c) may interview any person the investigating officer considers appropriate to interview, including the member concerned if the member concerned agrees to be interviewed.

(4) If the investigating officer considers that it cannot be established that the member concerned is unfit to hold the position of member of the Scottish Tribunals, the investigating officer must—

- (a) recommend in writing to the tribunal that no further procedure is required; and
- (b) give reasons for that recommendation in writing.

(5) The Judicial Office must provide copies of the recommendation and reasons to the member concerned.

(6) If the investigating officer considers that further procedure is required, the investigating officer must submit to the tribunal—

- (a) a written recommendation for further procedure;
- (b) a statement of reasons to the tribunal; and
- (c) a list and copies of any documents, and a list of any other productions, that are relied on in the statement of reasons.

(7) The Judicial Office must provide the member concerned with a copy of the written recommendation submitted to the tribunal under rule 4(6)(a), together with—

- (a) a copy of the statement of reasons submitted to the tribunal in accordance with rule 4(6)(b);
- (b) a list of any documents and productions that are relied on in the statement of reasons; and
- (c) a copy of any document included on the list mentioned in subparagraph (b).

(8) If the investigating officer is unable to fulfil the investigating officer's duties, the tribunal may appoint a substitute investigating officer from the list of persons referred to in paragraph (1).