

*Draft laid before Parliament under section 144(4) and (5)(ab) of the Constitutional Reform Act 2005, for approval by resolution of each House of Parliament.*

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D R A F T   S T A T U T O R Y   I N S T R U M E N T S

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**2013 No.**

**JUDICIAL APPOINTMENTS AND DISCIPLINE**

**The Judicial Appointments Regulations 2013**

*Made*   -   -   -   -   *\*\*\**

*Coming into force in accordance with regulation 1*

The Lord Chancellor, in exercise of the powers conferred by sections 94(2) and 94C of the Constitutional Reform Act 2005(a), makes the following Regulations.

In accordance with section 94(2), (3) and (4) and section 94C(1) of that Act the Lord Chief Justice agrees to the making of these Regulations.

A draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament in accordance with section 144(4) and (5)(ab) of the Constitutional Reform Act 2005(b).

**PART 1**

**General**

**Citation and commencement**

**1.** These Regulations may be cited as the Judicial Appointments Regulations 2013 and come into force—

- (a) on 1<sup>st</sup> October 2013; or
- (b) if made on or after that date, the day after the day on which they are made.

**Interpretation**

**2.—(1)** In these Regulations reference to a section, or Schedule, means unless the contrary is indicated, a section of, or Schedule to, the Constitutional Reform Act 2005.

(2) In these Regulations—

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- (a) 2005 c.4. Section 94 is amended by paragraph 68 of Schedule 13 to the Crime and Courts Act 2013 (c.22) and section 94C is inserted by paragraph 53(3) of Schedule 13 to the Crime and Courts Act 2013. Various other amendments have been made to Part 4 of, and Schedule 14 to, the Constitutional Reform Act 2005.
  - (b) Section 144(5) is amended by paragraph 78 of Schedule 13 to the Crime and Courts Act 2013.

- (a) “Judicial Appointments Board for Scotland” means the body established by section 9 of the Judiciary and Courts (Scotland) Act 2008(a);
- (b) “Northern Ireland Judicial Appointments Commission” means the body established by section 3 of the Justice (Northern Ireland) Act 2002(b).

(3) In these Regulations “England and Wales Supreme Court judge” means a judge of the Supreme Court of the United Kingdom who has held office as a judge of the Court of Appeal or the High Court in England and Wales before appointment to the Supreme Court.

(4) Seniority amongst the judges of the Supreme Court who are England and Wales Supreme Court judges is to be determined for the purposes of these Regulations as follows—

- (a) the President of the Supreme Court, if an England and Wales Supreme Court judge, is senior to other England and Wales Supreme Court judges;
- (b) the Deputy President of the Supreme Court, if an England and Wales Supreme Court judge, is senior to ordinary England and Wales Supreme Court judges;
- (c) one ordinary England and Wales Supreme Court judge is senior to another if that first judge has served longer as a judge of the Supreme Court (whether over one or more periods and whether or not including one or more previous periods as President or Deputy President of the Court).

(5) In paragraph (4) “ordinary England and Wales Supreme Court judge” means an England and Wales Supreme Court judge who is neither the President of the Supreme Court nor the Deputy President of the Supreme Court.

(6) Service as a Lord of Appeal in Ordinary counts as service as a judge of the Supreme Court for the purposes of paragraph (4)(c).

(7) References in these Regulations to a person being incapacitated are to the person being incapacitated in the opinion of the Lord Chancellor.

(8) In these Regulations “appropriate authority” has the meaning given in section 94C(4)(c).

### **Section 16 (functions of the Lord Chief Justice during vacancy or incapacity)**

3. Section 16(2)(a) or (b) does not apply to functions of the Lord Chief Justice or any requirement to consult the Lord Chief Justice under regulations 5, 6(1) and 11.

### **Non-legally qualified person**

4. For the purposes of sections 70, 75B and 79(d) a person is non-legally qualified if that person has never—

- (a) held an office listed in Schedule 14;
- (b) been a member of a panel appointed under regulation 8(1) or 8(3)(b) or (c) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004(e); or
- (c) practised as, or been employed as, a lawyer.

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(a) 2008 asp 6.

(b) 2002 c.26. Section 3 is amended by sections 1 and 2 of, and Schedule 1 to, the Justice (Northern Ireland) Act 2004 (c.4) but certain functions of the Lord Chancellor under section 3 have been transferred to the First Minister and deputy First Minister in Northern Ireland acting jointly by the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976).

(c) 2005 c.4. Section 94C is inserted by paragraph 53(3) of Schedule 13 to the Crime and Courts Act 2013.

(d) Sections 70, 75B and 79 are amended by paragraphs 58, 60 and 63 of Schedule 13 to the Crime and Courts Act 2013.

(e) S.I. 2004/1861. Regulation 8(3) has been amended by S.I. 2008/3240.

## PART 2

### Selection of Lord Chief Justice

#### Membership of selection panel

5.—(1) A selection panel appointed under section 70(1) to select a person for appointment to the office of Lord Chief Justice must consist of five members.

(2) The first member is the chairman of the Commission, unless paragraph (3) applies.

(3) If—

- (a) there is no chairman of the Commission;
- (b) the chairman of the Commission is incapacitated; or
- (c) the chairman of the Commission is unavailable,

the first member is a lay member of the Commission selected by the lay members of the Commission other than the chairman of the Commission.

(4) The first member is the chairman of the selection panel.

(5) The second member is the most senior England and Wales Supreme Court judge who is neither disqualified nor incapacitated, or that judge's nominee.

(6) The third member is a lay member of the Commission designated by the first member.

(7) The fourth member is a member of the Commission designated by the first member.

(8) The fifth member is a person designated by the Lord Chief Justice, unless paragraph (11) applies.

(9) Before designating a person under paragraph (7) as the fourth member, the first member must, if practicable, consult the Lord Chief Justice.

(10) Paragraph (11) applies if—

- (a) there is no Lord Chief Justice; or
- (b) the Lord Chief Justice is incapacitated.

(11) In that case the most senior England and Wales Supreme Court judge who is neither disqualified nor incapacitated must, after consulting the first member, nominate a holder of one of the offices listed in paragraph (12) to be the fifth member.

(12) Only the following may be a nominee under paragraph (5) or (11) or a designated member under paragraph (8)—

- (a) an England and Wales Supreme Court judge;
- (b) a Head of Division; or
- (c) a Lord Justice of Appeal.

(13) The following also apply to nominees, or those designated, under this regulation—

- (a) a person may not be a nominee, or a designated member, if that person is disqualified;
- (b) a person may not be appointed to the selection panel as the nominee of, or designated by, more than one person;
- (c) a person appointed to the selection panel otherwise than as a nominee or as a designated member may not be a nominee or designated member.

(14) A person is disqualified for the purposes of this regulation if—

- (a) the person is the Lord Chief Justice;
- (b) the office of Lord Chief Justice is vacant and the person is the immediate previous holder of that office; or
- (c) the person is willing to be considered for selection.

(15) Paragraph (16) applies where a person chooses a person to be a member of a selection panel (whether as a nominee, as a designated member or otherwise).

(16) The person making the choice must, in doing so, have regard (alongside all other relevant considerations) to the fact that it is desirable that the members of the selection panel should include—

- (a) both women and men; and
- (b) members drawn from a range of different racial groups (within the meaning of section 9(3) of the Equality Act 2010<sup>(a)</sup>).

### **Consultation**

**6.**—(1) If practicable the panel must consult, about the exercise of its functions under section 70, the Lord Chief Justice.

- (2) As part of the selection process under section 70(2)<sup>(b)</sup>, the selection panel must consult—
  - (a) the Lord Chancellor; and
  - (b) the First Minister for Wales.

### **Report**

**7.**—(1) After complying with section 70(2) the selection panel must submit a report to the Lord Chancellor.

- (2) The report must—
  - (a) state who has been selected;
  - (b) contain any other information required by the Lord Chancellor.
- (3) The report must be in a form approved by the Lord Chancellor.
- (4) After submitting the report the selection panel must provide any further information which the Lord Chancellor may require.

### **The Lord Chancellor's options**

- 8.**—(1) This regulation refers to the following stages—
- (a) Stage 1 – where a person has been selected under section 70(2) for appointment as Lord Chief Justice.
  - (b) Stage 2 – where a person has been selected following a rejection or reconsideration at stage 1.
  - (c) Stage 3 where a person has been selected following a rejection or reconsideration at stage 2.
- (2) At stage 1 the Lord Chancellor must do one of the following—
    - (a) accept the selection;
    - (b) reject the selection; or
    - (c) require the selection panel to reconsider the selection.
  - (3) At stage 2 the Lord Chancellor must do one of the following—
    - (a) accept the selection;
    - (b) reject the selection, but only if it was made following a reconsideration at stage 1; or
    - (c) require the selection panel to reconsider the selection, but only if it was made following a rejection at stage 1.
  - (4) At stage 3 the Lord Chancellor must accept the selection, unless subsection (5) applies and the Lord Chancellor accepts a selection under it.

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(a) 2010 (c.15).

(b) Section 70(2) is amended by paragraph 58(3) of Schedule 13 to the Crime and Courts Act 2013.

(5) If a person whose selection the Lord Chancellor required to be reconsidered at stage 1 or 2 was not selected again at the next stage, the Lord Chancellor may, at stage 3, accept the selection made at that earlier stage.

#### **Exercise of power to reject or require reconsideration**

**9.**—(1) The power of the Lord Chancellor under regulation 8 to reject a selection at stage 1 or 2 is exercisable only on the grounds that, in the Lord Chancellor’s opinion, the person selected is not suitable for the office concerned.

(2) The power of the Lord Chancellor under regulation 8 to require the selection panel to reconsider a selection at stage 1 or 2 is exercisable only on the ground that, in the Lord Chancellor’s opinion—

- (a) there is not enough evidence that the person is suitable for the office of Lord Chief Justice, or
- (b) there is evidence that the person is not the best candidate on merit.

(3) The Lord Chancellor must give the selection panel reasons in writing for rejecting or requiring reconsideration of a selection.

#### **Selection following requirement to reconsider**

**10.**—(1) If under regulation 8 the Lord Chancellor rejects or requires the reconsideration of a selection at stage 1 or 2, the selection panel must select a person in accordance with this regulation.

(2) If the Lord Chancellor rejects a selection, the selection panel—

- (a) may not select the person rejected, and
- (b) where the rejection is following reconsideration of a selection, may not select the person (if different) whose selection it reconsidered.

(3) If the Lord Chancellor requires a selection to be reconsidered, the selection panel—

- (a) may select the same person or a different person, but
- (b) where the requirement to reconsider follows a rejection, may not select the person rejected.

(4) The selection panel must inform the Lord Chancellor of the person selected following a rejection or a requirement to reconsider.

(5) This regulation does not prevent a person being selected on a subsequent request under section 69(a).

## **PART 3**

### **Selection of Heads of Division**

#### **Membership of selection panel**

**11.**—(1) A selection panel appointed under section 70(1) to select a person for appointment as a Head of Division must consist of five members.

(2) The first member is the Lord Chief Justice or the Lord Chief Justice’s nominee, unless paragraph (8) applies.

(3) Unless paragraph (8) applies, the second member is the most senior England and Wales Supreme Court judge who is neither disqualified nor incapacitated, or that judge’s nominee.

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(a) Section 69 is amended by paragraph 57 of Schedule 13 to the Crime and Courts Act 2013.

(4) The third member is the chairman of the Commission or the chairman of the Commission's nominee, unless paragraph (9) applies.

(5) The fourth member is a lay member of the Commission designated by the third member.

(6) The fifth member is a person designated by the first member after consulting the third member.

(7) Paragraph (8) applies if—

- (a) there is no Lord Chief Justice;
- (b) the Lord Chief Justice is disqualified; or
- (c) the Lord Chief Justice is incapacitated.

(8) In those cases—

- (a) the most senior England and Wales Supreme Court judge who is neither disqualified nor incapacitated, or that judge's nominee, is the first member; and
- (b) the second member is the nominee of the first member.

(9) If—

- (a) there is no chairman of the Commission;
- (b) the chairman of the Commission is incapacitated; or
- (c) the chairman of the Commission is unavailable and has not nominated a person under paragraph (4),

the third member is a lay member of the Commission selected by the lay members of the Commission other than the chairman of the Commission.

(10) Only the following may be a nominee under paragraph (2), (3) or (8)—

- (a) an England and Wales Supreme Court judge;
- (b) a Head of Division; or
- (c) a Lord Justice of Appeal.

(11) Only a lay member of the Commission may be a nominee under paragraph (4).

(12) Only the following may be designated under paragraph (6)—

- (a) an England and Wales Supreme Court judge;
- (b) a senior judge (as defined by section 109(5));
- (c) the holder of an office listed in Schedule 14; or
- (d) a member of the Commission.

(13) The following also apply to nominees, or those designated, under this regulation—

- (a) a person may not be a nominee, or a designated member, if that person is disqualified;
- (b) a person may not be appointed to the selection panel as the nominee of, or designated by, more than one person;
- (c) a person appointed to the selection panel otherwise than as a nominee or as a designated member may not be a nominee or designated member.

(14) The first member is the chairman of the selection panel.

(15) A person is disqualified for the purposes of this regulation if—

- (a) the person is the holder of the office for which a selection is to be made;
- (b) the person is willing to be considered for selection.

(16) Paragraph (17) applies where a person chooses a person to be a member of a selection panel (whether as a nominee, as a designated member or otherwise).

(17) The person making the choice must, in doing so, have regard (alongside all other relevant considerations) to the fact that it is desirable that the members of the selection panel should include—

- (a) both women and men; and

- (b) members drawn from a range of different racial groups (within the meaning of section 9(3) of the Equality Act 2010).

### **Consultation**

**12.**—(1) If practicable the panel must consult, about the exercise of its functions under section 70, the current holder of the office for which a selection is to be made.

(2) As part of the selection process under section 70(2), the selection panel must consult the Lord Chancellor.

### **Report**

**13.**—(1) After complying with section 70(2) the selection panel must submit a report to the Lord Chancellor.

(2) The report must—

- (a) state who has been selected;
- (b) contain any other information required by the Lord Chancellor.

(3) The report must be in a form approved by the Lord Chancellor.

(4) After submitting the report the selection panel must provide any further information which the Lord Chancellor may require.

### **The Lord Chancellor's options**

**14.**—(1) This regulation refers to the following stages—

- (a) Stage 1 – where a person has been selected under section 70(2) for appointment as a Head of Division.
- (b) Stage 2 – where a person has been selected following a rejection or reconsideration at stage 1.
- (c) Stage 3 – where a person has been selected following a rejection or reconsideration at stage 2.

(2) At stage 1 the Lord Chancellor must do one of the following—

- (a) accept the selection;
- (b) reject the selection; or
- (c) require the selection panel to reconsider the selection.

(3) At stage 2 the Lord Chancellor must do one of the following—

- (a) accept the selection;
- (b) reject the selection, but only if it was made following a reconsideration at stage 1; or
- (c) require the selection panel to reconsider the selection, but only if it was made following a rejection at stage 1.

(4) At stage 3 the Lord Chancellor must accept the selection, unless paragraph (5) applies and the Lord Chancellor accepts a selection under it.

(5) If a person whose selection the Lord Chancellor required to be reconsidered at stage 1 or 2 was not selected again at the next stage, the Lord Chancellor may, at stage 3, accept the selection made at that earlier stage.

### **Exercise of powers to reject or require reconsideration**

**15.**—(1) The power of the Lord Chancellor under regulation 14 to reject a selection at stage 1 or 2 is exercisable only on the ground that, in the Lord Chancellor's opinion, the person selected is not suitable for the office concerned.

(2) The power of the Lord Chancellor under regulation 14 to require the selection panel to reconsider a selection at stage 1 or 2 is exercisable only on the ground that, in the Lord Chancellor's opinion—

- (a) there is not enough evidence that the person is suitable for the office concerned; or
- (b) there is evidence that the person is not the best candidate on merit.

(3) The Lord Chancellor must give the selection panel reasons in writing for rejecting or requiring reconsideration of a selection.

#### **Selection following rejection or requirement to reconsider**

**16.**—(1) If under regulation 14 the Lord Chancellor rejects or requires reconsideration of a selection at stage 1 or 2, the selection panel must select a person in accordance with this regulation.

(2) If the Lord Chancellor rejects a selection, the selection panel—

- (a) may not select the person rejected; and
- (b) where the rejection is following reconsideration of a selection, may not select the person (if different) whose selection it reconsidered.

(3) If the Lord Chancellor requires a selection to be reconsidered, the selection panel—

- (a) may select the same person or a different person; but
- (b) where the requirement to reconsider follows a rejection, may not select the person rejected.

(4) The selection panel must inform the Lord Chancellor of the person selected following a rejection or a requirement to reconsider.

(5) Paragraphs (2) and (3) do not prevent a person being selected on a subsequent request under section 69.

## **PART 4**

### **Selection of Senior President of Tribunals**

#### **Membership of selection panel**

**17.**—(1) A selection panel appointed under section 75B(1) to select a person for appointment to the office of Senior President of Tribunals must consist of five members.

(2) The first member is the Lord Chief Justice or the Lord Chief Justice's nominee.

(3) The second member is a person designated by the first member.

(4) Unless paragraph (12) applies, the third member is the chairman of the Commission or the chairman of the Commission's nominee.

(5) The fourth member is a lay member of the Commission designated by the third member.

(6) The fifth member is a person designated by the first member.

(7) A nominee of the first member under paragraph (2) must be a Head of Division or Lord Justice of Appeal.

(8) The second member must be—

- (a) a person who has held but who does not currently hold the office of Senior President of Tribunals;
- (b) a person who holds, or who has held, office as a Chamber President of a chamber of the First-tier Tribunal or of a chamber of the Upper Tribunal;



- (c) a person who is, or who has been, a judge of the Employment Appeal Tribunal nominated under section 22(1)(a) or (b) of the Employment Tribunals Act 1996(a);
  - (d) a person who is, or who has been, the President of Employment Tribunals (England and Wales) appointed under regulation 4(1) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004(b);
  - (e) a person who is, or who has been, the President of Employment Tribunals (Scotland) appointed under regulation 4(2) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004(c); or
  - (f) a person who holds, or who has held, an office that, in the opinion of the Lord Chief Justice, is such that a holder of it would acquire knowledge or experience of tribunals broadly similar to that which would be acquired by a person who holds one of the offices referred to in sub-paragraphs (a) to (e).
- (9) Before designating a person under paragraph (3), the first member must consult—
- (a) the Lord President of the Court of Session; and
  - (b) the Lord Chief Justice of Northern Ireland.
- (10) The person designated by the first member under paragraph (6) must be—
- (a) a member of the Commission;
  - (b) a member of the Judicial Appointments Board for Scotland; or
  - (c) a member of the Northern Ireland Judicial Appointments Commission.
- (11) Before designating a person under paragraph (6), the first member must consult—
- (a) the chairman of the Commission;
  - (b) the Chairing Member of the Judicial Appointments Board for Scotland appointed under paragraph 9 of schedule 1 to the Judiciary and Courts (Scotland) Act 2008(d); and
  - (c) the chairman of the Northern Ireland Judicial Appointments Commission appointed under section 3 of the Justice (Northern Ireland) Act 2002(e).
- (12) If—
- (a) there is no chairman of the Commission;
  - (b) the chairman of the Commission is incapacitated; or
  - (c) the chairman of the Commission is unavailable and has not nominated a person under paragraph (4),
- the third member is a lay member of the Commission selected by the lay members of the Commission other than the chairman of the Commission.
- (13) Only a lay member of the Commission may be a nominee under paragraph (4).
- (14) The following also apply to nominees, or those designated, under this regulation—
- (a) a person may not be a nominee, or a designated member, if that person is disqualified;
  - (b) a person may not be appointed to the selection panel as the nominee of, or designated by, more than one person;
  - (c) a person appointed to the selection panel otherwise than as a nominee, or as a designated member, may not be a nominee or a designated member.
- (15) The first member is the chairman of the selection panel.
- (16) A person is disqualified for the purposes of this regulation if—
- (a) the person is the holder of the office of Senior President of Tribunals;

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(a) 1996 c.17. Section 22(1)(a) has been amended by sections 15(1) and 146 of, and Schedule 4, Part 1, and Schedule 18, Part 2, to the Constitutional Reform Act 2005.

(b) S.I. 2004/1861. Regulation 4(1) has been amended by S.I. 2008/2683.

(c) Regulation 4(2) has also been amended by S.I. 2008/2683.

(d) 2008 asp 6.

(e) 2002 c.26.

- (b) the office of Senior President of Tribunals is vacant and the person is the immediately previous holder of that office; or
- (c) the person is willing to be considered for selection.

(17) Paragraph (18) applies where a person chooses a person to be a member of a selection panel (whether as a nominee, as a designated member or otherwise).

(18) The person making the choice must, in doing so, have regard (alongside all other relevant considerations) to the fact that it is desirable that the members of the selection panel should include—

- (a) both women and men; and
- (b) members drawn from a range of different racial groups (within the meaning of section 9(3) of the Equality Act 2010).

### **Consultation**

**18.**—(1) If practicable, the selection panel must consult, about the exercise of its functions under section 75B, the current holder of the office of Senior President of Tribunals.

(2) As part of the selection process under section 75B, the selection panel must consult the Lord Chancellor.

### **Report**

**19.**—(1) After complying with section 75B(2) the selection panel must submit a report to the Lord Chancellor.

(2) The report must—

- (a) state who has been selected;
- (b) contain any other information required by the Lord Chancellor.

(3) The report must be in a form approved by the Lord Chancellor.

(4) After submitting the report the selection panel must provide any further information which the Lord Chancellor may require.

### **The Lord Chancellor's options**

**20.**—(1) This regulation refers to the following stages—

- (a) Stage 1 – where a person has been selected under section 75B for appointment to the office of Senior President of Tribunals.
- (b) Stage 2 – where a person has been selected following a rejection or reconsideration at stage 1.
- (c) Stage 3 – where a person has been selected following a rejection or reconsideration at stage 2.

(2) At stage 1 the Lord Chancellor must do one of the following—

- (a) accept the selection;
- (b) reject the selection; or
- (c) require the selection panel to reconsider the selection.

(3) At stage 2 the Lord Chancellor must do one of the following—

- (a) accept the selection;
- (b) reject the selection, but only if it was made following a reconsideration at stage 1; or
- (c) require the selection panel to reconsider the selection, but only if it was made following a rejection at stage 1.

(4) At stage 3 the Lord Chancellor must accept the selection, unless paragraph (5) applies and the Lord Chancellor accepts a selection under it.

(5) If a person whose selection the Lord Chancellor required to be reconsidered at stage 1 or 2 was not selected again at the next stage, the Lord Chancellor may, at stage 3, accept the selection made at that earlier stage.

### **Exercise of powers to reject or require reconsideration**

**21.**—(1) The power of the Lord Chancellor under regulation 20 to reject a selection at stage 1 or 2 is exercisable only on the ground that, in the Lord Chancellor's opinion, the person selected is not suitable for the office of Senior President of Tribunals.

(2) The power of the Lord Chancellor under regulation 20 to require the selection panel to reconsider a selection at stage 1 or 2 is exercisable only on the ground that, in the Lord Chancellor's opinion—

- (a) there is not enough evidence that the person is suitable for the office of Senior President of Tribunals; or
- (b) there is evidence that the person is not the best candidate on merit.

(3) The Lord Chancellor must give the selection panel reasons in writing for rejecting or requiring reconsideration of a selection.

### **Selection following rejection or requirement to reconsider**

**22.**—(1) If under regulation 20 the Lord Chancellor rejects or requires reconsideration of a selection at stage 1 or 2, the selection panel must select a person in accordance with this regulation.

(2) If the Lord Chancellor rejects a selection, the selection panel—

- (a) may not select the person rejected; and
- (b) where the rejection is following reconsideration of a selection, may not select the person (if different) whose selection it reconsidered.

(3) If the Lord Chancellor requires a selection to be reconsidered, the selection panel—

- (a) may select the same person or a different person; but
- (b) where the requirement to reconsider follows a rejection, may not select the person rejected.

(4) The selection panel must inform the Lord Chancellor of the person selected following a rejection or a requirement to reconsider.

(5) Paragraphs (2) and (3) do not prevent a person being selected on a subsequent request under paragraph 2(5) of Schedule 1 to the Tribunals, Courts and Enforcement Act 2007(a).

## **PART 5**

### **Selection of Lords Justice of Appeal**

#### **Membership of selection panel**

**23.**—(1) A selection panel appointed under section 79(1) to select a person for appointment as a Lord Justice of Appeal must consist of five members.

(2) The first member is the Lord Chief Justice or the Lord Chief Justice's nominee.

(3) The second member is a person designated by the first member.

(4) Unless paragraph (9) applies, the third member is the chairman of the Commission or the chairman of the Commission's nominee.

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(a) 2007 c.15.

- (5) The fourth member is a lay member of the Commission designated by the third member.
- (6) The fifth member is a person designated by the first member after consulting the third member.
- (7) The first member is the chairman of the selection panel.
- (8) Only a Head of Division or Lord Justice of Appeal may be a nominee under paragraph (2) or designated under paragraph (3).
- (9) If—
- (a) there is no chairman of the Commission;
  - (b) the chairman of the Commission is incapacitated; or
  - (c) the chairman of the Commission has not nominated a person under paragraph (4),
- the third member is a lay member of the Commission selected by the lay members of the Commission other than the chairman of the Commission.
- (10) Only the following may be designated under paragraph (6)—
- (a) an England and Wales Supreme Court judge;
  - (b) a Head of Division;
  - (c) the Senior President of Tribunals;
  - (d) a puisne judge of the High Court;
  - (e) the holder of an office listed in Schedule 14;
  - (f) a member of the Commission who is not a Lord Justice of Appeal.
- (11) The following also apply to nominees, or those designated, under this regulation—
- (a) a person may not be a nominee, or a designated member, if that person is disqualified;
  - (b) a person may not be appointed to the selection panel as the nominee of, or as a designated member by, more than one person;
  - (c) a person appointed to the selection panel otherwise than as a nominee, or as a designated member, may not be a nominee or a designated member.
- (12) A person is disqualified for the purposes of this regulation if that person is willing to be considered for selection.
- (13) Paragraph (14) applies where a person chooses a person to be a member of a selection panel (whether as a nominee, as a designated member or otherwise).
- (14) The person making the choice must, in doing so, have regard (alongside all other relevant considerations) to the fact that it is desirable that the members of the selection panel should include—
- (a) both women and men; and
  - (b) members drawn from a range of different racial groups (within the meaning of section 9(3) of the Equality Act 2010).

### **Consultation**

**24.** As part of the selection process under section 79(2), the selection panel must consult the Lord Chancellor.

### **Report**

**25.—**(1) After complying with section 79(2) the selection panel must submit a report to the Lord Chancellor.

(2) The report must—

- (a) state who has been selected;
- (b) contain any other information required by the Lord Chancellor.

- (3) The report must be in a form approved by the Lord Chancellor.
- (4) After submitting the report the selection panel must provide any further information which the Lord Chancellor may require.

### **The Lord Chancellor's options**

- 26.**—(1) This regulation refers to the following stages—
- (a) Stage 1 – where a person has been selected under section 79 for appointment as a Lord Justice of Appeal.
  - (b) Stage 2 – where a person has been selected following a rejection or reconsideration at stage 1.
  - (c) Stage 3 – where a person has been selected following a rejection or reconsideration at stage 2.
- (2) At stage 1 the Lord Chancellor must do one of the following—
- (a) accept the selection;
  - (b) reject the selection; or
  - (c) require the selection panel to reconsider the selection.
- (3) At stage 2 the Lord Chancellor must do one of the following—
- (a) accept the selection;
  - (b) reject the selection, but only if it was made following a reconsideration at stage 1; or
  - (c) require the selection panel to reconsider the selection, but only if it was made following a rejection at stage 1.
- (4) At stage 3 the Lord Chancellor must accept the selection, unless paragraph (5) applies and the Lord Chancellor accepts a selection under it.
- (5) If a person whose selection the Lord Chancellor required to be reconsidered at stage 1 or 2 was not selected again at the next stage, the Lord Chancellor may, at stage 3, accept the selection made at that earlier stage.

### **Exercise of powers to reject or require reconsideration**

- 27.**—(1) The power of the Lord Chancellor under regulation 26 to reject a selection at stage 1 or 2 is exercisable only on the grounds that, in the Lord Chancellor's opinion, the person selected is not suitable for the office of Lord Justice of Appeal.
- (2) The power of the Lord Chancellor under regulation 26 to require the selection panel to reconsider a selection at stage 1 or 2 is exercisable only on the grounds that, in the Lord Chancellor's opinion—
- (a) there is not enough evidence that the person is suitable for the office of Lord Justice of Appeal; or
  - (b) there is evidence that the person is not the best candidate on merit.
- (3) The Lord Chancellor must give the selection panel reasons in writing for rejecting or requiring reconsideration of a selection.

### **Selection following rejection or requirement to reconsider**

- 28.**—(1) If under regulation 26 the Lord Chancellor rejects or requires reconsideration of a selection at stage 1 or 2, the selection panel must select a person in accordance with this regulation.
- (2) If the Lord Chancellor rejects a selection, the selection panel—
- (a) may not select the person rejected; and

- (b) where the rejection is following reconsideration of a selection, may not select the person (if different) whose selection it reconsidered.
- (3) If the Lord Chancellor requires a selection to be reconsidered, the selection panel—
  - (a) may select the same person or a different person; but
  - (b) where the requirement to reconsider follows a rejection, may not select the person rejected.
- (4) The selection panel must inform the Lord Chancellor of the person selected following a rejection or a requirement to reconsider.
- (5) Paragraphs (2) and (3) do not prevent a person being selected on a subsequent request under section 78(a).

## PART 6

### Selection of puisne judges and other office holders

#### Scope

**29.** This Part applies to—

- (a) a recommendation for an appointment to the office of puisne judge of the High Court;
- (b) a recommendation for an appointment to an office listed in Part 1 of Schedule 14(b) in exercise of Her Majesty’s function under the enactment listed opposite that office;
- (c) an appointment to an office listed in Table 1 of Part 2 or 3 of that Schedule in exercise of the Lord Chancellor’s function under the enactment listed opposite that office;
- (d) an appointment to an office listed in Table 2 of Part 2 of that Schedule in exercise of the Lord Chief Justice’s function under the enactment listed opposite that office;
- (e) an appointment to an office listed in Table 2 of Part 3 of that Schedule in exercise of the function of the Senior President of Tribunals under the enactment listed opposite that office.

#### Consultation

**30.—(1)** As part of the selection process under section 88(c) the Commission must, unless paragraph (4) applies, consult—

- (a) where the selection relates to the office of puisne judge of the High Court, the Lord Chief Justice;
- (b) in all other cases, a person (other than the Lord Chief Justice or Senior President of Tribunals where he or she is the appropriate authority) who has held the office for which a selection is to be made or has other relevant experience.

(2) The Commission may consult another person (apart from the appropriate authority) who has held the office for which selection is to be made or has other relevant experience with the agreement of the persons mentioned in paragraph (3).

(3) The persons referred to in paragraph (2) are—

- (a) where the appropriate authority is the Senior President of Tribunals, the Senior President of Tribunals and the chairman of the Commission;
- (b) in all other cases, the Lord Chief Justice and the chairman of the Commission.

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(a) Section 78 is amended by paragraph 62 of Schedule 13 to the Crime and Courts Act 2013.

(b) 2005 c.4; Part 1 of Schedule 14 was amended by the Crime and Courts Act 2013(c.22), Schedule 13, paragraph 29; there are other amendments to Part 1 of Schedule 14 but none is relevant.

(c) Section 88 is amended by paragraph 67 of Schedule 13 to the Crime and Courts Act 2013.

(4) Paragraph (1) does not apply where—

- (a) the Lord Chief Justice is the appropriate authority and agrees with the chairman of the Commission that consultation is not required;
- (b) the Senior President of Tribunals is the appropriate authority and agrees with the chairman of the Commission that consultation is not required;
- (c) the Lord Chancellor is the appropriate authority and agrees with the chairman of the Commission and the Lord Chief Justice that consultation is not required.

(5) Where the selection process relates to the appointment (or a recommendation for the appointment) of a person to exercise functions wholly or mainly in Scotland, the Commission must consult the Lord President of the Court of Session unless the Lord President, the appropriate authority and the chairman of the Commission agree that consultation is not required.

(6) Where the selection process relates to the appointment (or a recommendation for the appointment) of a person to exercise functions wholly or mainly in Northern Ireland, the Commission must consult the Lord Chief Justice of Northern Ireland unless the Lord Chief Justice of Northern Ireland, the appropriate authority and the chairman of the Commission agree that consultation is not required.

## **Report**

**31.**—(1) After complying with section 88 the Commission must submit a report to the appropriate authority.

(2) The report must—

- (a) describe the selection process;
- (b) state the selection made;
- (c) state any recommendation made in consultation under regulation 30 by a person consulted;
- (d) give reasons in any case where the Commission has not followed such a recommendation;
- (e) contain any other information required by the appropriate authority.

(3) The report must be in a form approved by the appropriate authority.

(4) After submitting the report the Commission must provide any further information the appropriate authority may require.

## **The appropriate authority's options**

**32.**—(1) Before exercising the powers under this regulation at any stage in relation to a selection for an appointment or recommendation the appropriate authority must—

- (a) consult any person whom the appropriate authority is required by any enactment to consult before the appointment or recommendation is made;
- (b) consult the Scottish Ministers if it appears to the appropriate authority to be an appointment or recommendation for the appointment, of a person to exercise functions wholly or mainly in Scotland.

(2) This regulation refers to the following stages—

- (a) Stage 1 – where a person has been selected under section 88(1).
- (b) Stage 2 – where a person has been selected following a rejection or reconsideration at stage 1.
- (c) Stage 3 – where a person has been selected following a rejection or reconsideration at stage 2.

(3) At stage 1 the appropriate authority must do one of the following—

- (a) accept the selection;
- (b) reject the selection; or



- (c) require the Commission to reconsider the selection.
- (4) At stage 2 the appropriate authority must do one of the following—
  - (a) accept the selection;
  - (b) reject the selection, but only if it was made following a reconsideration at stage 1; or
  - (c) require the Commission to reconsider the selection, but only if it was made following a rejection at stage 1.
- (5) At stage 3 the appropriate authority must accept the selection unless paragraph (6) applies and the appropriate authority accepts a selection under it.
- (6) If a person whose selection the appropriate authority required to be reconsidered at stage 1 or 2 was not selected again at the next stage, the appropriate authority may, at stage 3, accept the selection made at that earlier stage.

**Exercise of powers to reject or require reconsideration**

**33.**—(1) The appropriate authority’s power under regulation 32 to reject a selection at stage 1 or 2 is exercisable only on the ground that, in the appropriate authority’s opinion, the person selected is not suitable for the office concerned.

(2) The appropriate authority’s power under regulation 32 to require the Commission to reconsider a selection at stage 1 or 2 is exercisable only on the ground that, in the appropriate authority’s opinion—

- (a) there is not enough evidence that the person is suitable for the office concerned; or
- (b) there is evidence that the person is not the best candidate on merit.

(3) The appropriate authority must give the Commission reasons in writing for rejecting or requiring reconsideration of a selection.

**Selection following rejection or requirement to reconsider**

**34.**—(1) If under regulation 32 the appropriate authority rejects or requires reconsideration of a selection at stage 1 or 2, the Commission must select a person in accordance with this regulation.

(2) If the appropriate authority rejects a selection, the Commission—

- (a) may not select the person rejected; and
- (b) where the rejection is following a requirement to reconsider, may not select the person (if different) whose selection is reconsidered.

(3) If the appropriate authority requires selection to be reconsidered, the Commission—

- (a) may select the same person or a different person; but
- (b) where the requirement to reconsider follows a rejection, may not select the person rejected.

(4) The Commission must inform the appropriate authority of any person selected following a rejection or a requirement to reconsider.

(5) Paragraphs (2) and (3) do not prevent a person being selected on a subsequent request under section 87(a).

**Reconsideration of decision not to select**

**35.**—(1) This regulation applies where the Commission decides that the selection process has not identified a candidate of sufficient merit for it to make a selection.

(2) The appropriate authority may require the Commission to reconsider such a decision.

---

(a) Section 87 is amended by paragraph 66 of Schedule 13 to the Crime and Courts Act 2013.



(3) The Commission must inform the appropriate authority of any person selected on reconsideration under this regulation.

(4) Regulations 32 to 34 apply to a selection under paragraph (2).

### **Duty to identify persons for future requests**

**36.**—(1) Where section 94(1)(a) applies, the Commission must, when seeking to identify persons, in particular have regard to—

- (a) the number of recommendations and appointments for which the Lord Chancellor expects to request selections;
- (b) the power of the appropriate authority to reject or require reconsideration of a selection.

(2) Where the Lord Chancellor gives the Commission a notice as part of the process of identifying persons under section 94(1), the Commission must consult a person or persons other than the appropriate authority, with experience in the office or offices to which a request specified in the notice under section 94(1) relates, or with other relevant experience.

(3) Paragraph (2) does not apply where the chairman of the Commission and the appropriate authority agree that consultation is not required.

(4) The Commission must submit a report to the Lord Chancellor and the appropriate authority (where the appropriate authority is not the Lord Chancellor) containing any information which it considers appropriate about —

- (a) the extent to which it has identified suitable persons; and
- (b) other matters likely to assist the appropriate authority in exercising their functions relating to appointments and recommendations.

(5) A report under paragraph (4) must—

- (a) state any recommendation made in consultation under paragraph (2) by a person consulted;
- (b) give reasons in any case where the Commission has not followed such a recommendation.

(6) Where the Lord Chancellor makes a request for the purposes of which the Commission has identified persons under section 94(1), the Commission must, in determining the selection process to be applied, consider whether selection should be among those persons.

## **PART 7**

### **Effect of acceptance of selection**

**37.**—(1) Where the appropriate authority is the Lord Chancellor, the Lord Chancellor must make the appointment, or recommendation, for which the selection has been made.

(2) Where the appropriate authority is the Lord Chief Justice, the Lord Chief Justice must—

- (a) where the selection is for an office listed in Table 2 of Part 1 of Schedule 14, inform the Lord Chancellor of the person selected as soon as reasonably practicable;
- (b) where the selection is for an office listed in Table 2 of Part 2 of Schedule 14(b), make the appointment for which the selection has been made and appoint the person selected.

(3) Where the appropriate authority is the Senior President of Tribunals, the Senior President of Tribunals must—

- (a) where the selection is for an office listed in Table 3 of Part 1 of Schedule 14, inform the Lord Chancellor of the person selected as soon as reasonably practicable;

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(a) Section 94 is amended by paragraph 68 of Schedule 13 to the Crime and Courts Act 2013.

(b) Part 2 of Schedule 14 was amended by paragraph 41 of Schedule 13 to the Crime and Courts Act 2013.

- (b) where the selection is for an office listed in Table 2 of Part 3 of Schedule 14(a), make the appointment for which the selection has been made and appoint the person selected.

**38.**—(1) Before exercising a power to make an appointment or recommendation, the Lord Chancellor, the Lord Chief Justice or the Senior President of Tribunals as the case may be may make arrangements—

- (a) for any assessment of the health of the person selected as considered appropriate; and
- (b) for a report of the assessment to be made to the Lord Chancellor, the Lord Chief Justice or the Senior President of Tribunals as the case may be.

(2) Paragraph (3) applies in any of the following circumstances—

- (a) the Lord Chancellor, the Lord Chief Justice or the Senior President of Tribunals as the case may be notifies the Commission that he or she is not satisfied on the basis of a report under paragraph (1), having consulted the appropriate authority (where different from the person making the appointment or recommendation), that the health of the person selected is satisfactory for the purposes of the appointment or recommendation;
- (b) the person selected declines to be appointed or recommended, or does not agree within a time specified to him or her for that purpose;
- (c) the person selected is otherwise not available within a reasonable time to be appointed or recommended.

(3) Where this paragraph applies—

- (a) the selection accepted and any previous selection for the same appointment or recommendation are to be disregarded;
- (b) the request pursuant to which the selection was made continues to have effect; and
- (c) any subsequent selection pursuant to that request may be made in accordance with the same or a different selection process.

## PART 8

### Selection of a person for membership of a pool for requests under section 9(1) of the Senior Courts Act 1981

#### Scope

**39.** This part applies to selection of a person for membership of a pool for requests under section 9(1) of the Senior Courts Act 1981(b).

#### Report

**40.**—(1) After complying with section 88 the Commission must submit a report to the Lord Chief Justice.

(2) The report must—

- (a) describe the selection process;
- (b) state the selection made; and
- (c) contain any other information required by the Lord Chief Justice.

(3) The report must be in a form approved by the Lord Chief Justice.

---

(a) Part 3 of Schedule 14 was amended by paragraph 49 of Schedule 13 to the Crime and Courts Act 2013.  
(b) 1981 c.54; section 9 was amended by the Administration of Justice Act 1982 (c.53), section 58; the Judicial Pensions and Retirement Act 1993 (c.8), Schedule 6, paragraphs 5(1) and (2); the Criminal Justice and Public Order Act 1994 (c.33), section 52; the Constitutional Reform Act 2005 (c.4), Schedule 4, paragraphs 114 and 121; and by the Crime and Courts Act (c.22), Schedule 14, paragraphs 1 and 2 and Schedule 13, paragraph 52.

(4) After submitting the report the Commission must provide any further information which the Lord Chief Justice may require.

### **The Lord Chief Justice's options**

**41.**—(1) This regulation refers to the following stages—

- (a) Stage 1 – where a person has been selected under section 88(1).
- (b) Stage 2 – where a person has been selected following a rejection or reconsideration at stage 1.
- (c) Stage 3 – where a person has been selected following a rejection or reconsideration at stage 2.

(2) At stage 1 the Lord Chief Justice must do one of the following—

- (a) accept the selection;
- (b) reject the selection; or
- (c) require the Commission to reconsider the selection.

(3) At stage 2 the Lord Chief Justice must do one of the following—

- (a) accept the selection;
- (b) reject the selection, but only if it was made following a reconsideration at stage 1; or
- (c) require the Commission to reconsider the selection, but only if it was made following a rejection at stage 1.

(4) At stage 3 the Lord Chief Justice must accept the selection unless paragraph (5) applies and the Lord Chief Justice accepts a selection under it.

(5) If a person whose selection the Lord Chief Justice required to be reconsidered at stage 1 or stage 2 was not selected again at the next stage, the Lord Chief Justice may, at stage 3, accept the selection made at that earlier stage.

### **Exercise of powers to reject or require reconsideration**

**42.**—(1) The Lord Chief Justice's power under regulation 41 to reject a selection at stage 1 or 2 is exercisable only on the ground that, in the Lord Chief Justice's opinion, the person selected is not suitable to act as a judge of the High Court.

(2) The Lord Chief Justice's power under regulation 41 to require the Commission to reconsider a selection at stage 1 or 2 is exercisable only on the ground that, in the Lord Chief Justice's opinion—

- (a) there is not enough evidence that the person is suitable to act as a judge of the High Court; or
- (b) there is evidence that the person is not the best candidate on merit.

(3) The Lord Chief Justice must give the Commission reasons in writing for rejecting or requiring reconsideration of a selection.

### **Selection following rejection or requirement to reconsider**

**43.**—(1) If under regulation 41 the Lord Chief Justice rejects or requires reconsideration of a selection at stage 1 or 2, the Commission must select a person in accordance with this regulation.

(2) If the Lord Chief Justice rejects a selection, the Commission—

- (a) may not select the person rejected; and
- (b) where the rejection is following a requirement to reconsider, may not select the person (if different) whose selection is reconsidered.

(3) If the Lord Chief Justice requires selection to be reconsidered, the Commission—

- (a) may select the same person or a different person; but

(b) where the requirement to reconsider follows a rejection, may not select the person rejected.

(4) The Commission must inform the Lord Chief Justice of any person selected following a rejection or a requirement to reconsider.

(5) Paragraphs (2) and (3) do not prevent a person being selected on a subsequent request under section 87.

#### **Reconsideration of decision not to select**

**44.**—(1) This regulation applies where the Commission decides that the selection process has not identified a candidate of sufficient merit for it to make a selection.

(2) The Lord Chief Justice may require the Commission to reconsider such a decision.

(3) The Commission must inform the Lord Chief Justice of any person selected on reconsideration under this regulation.

(4) Regulations 41 to 43 apply to such a person as if the Commission had selected that person instead of making the decision reconsidered.

#### **Effect of acceptance of selection**

**45.**—(1) This regulation applies where the Lord Chief Justice accepts a selection made under this Part.

(2) The person selected becomes a member of the pool for requests under section 9(1) of the Senior Courts Act 1981.

## **PART 9**

### **General**

#### **Delegation of functions by the Lord Chief Justice**

**46.**—(1) The Lord Chief Justice may nominate a senior judge (as defined in section 109(5)) to exercise any of the functions of the Lord Chief Justice, including functions as a consultee, under the relevant regulations.

(2) The relevant regulations are—

- (a) Regulation 30(4)(a);
- (b) regulations 31 to 35;
- (c) regulation 37 and
- (d) regulations 40 to 45.

(3) The Lord Chief Justice may nominate a senior judge (as defined in section 109(5)) to exercise any of the functions of the Lord Chief Justice under regulation 38.

#### **Delegation of functions by the Senior President of Tribunals**

**47.**—(1) The Senior President of Tribunals may not delegate any of the functions, including functions as a consultee, of the Senior President of Tribunals under these Regulations.

(2) Paragraph (1) does not apply to—

- (a) the exercise of any of the functions, including functions as a consultee, of the Senior President of Tribunals in the relevant regulations where the Senior President of Tribunals is the appropriate authority and the selection relates to an office listed in paragraph (3);
- (b) the exercise of any of the functions of the Senior President of Tribunals under regulation 38 and the selection relates to an office listed in paragraph (3).

- (3) The offices referred to in paragraph (2) are—
- (a) a judge of the First-tier Tribunal appointed under paragraph 1(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007(a); or
  - (b) a person to be an other member of the First-tier Tribunal appointed under paragraph 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007.
- (4) The relevant regulations referred to in paragraph (2)(a) are—
- (a) regulation 30(4)(b);
  - (b) regulations 31 to 35;
  - (c) regulation 37.
- (5) The Senior President of Tribunals may only delegate a function in the relevant regulations or regulation 38 to a Chamber President of the Upper Tribunal.

## PART 10

### Transitional provisions

**48.**—(1) Where a request for a selection is made to the Commission by the Lord Chancellor before the commencement of these Regulations, Part 4 of Schedule 13 to the Crime and Courts Act 2013 is to be treated as if it had not come into force and the enactments which it amends shall continue to have effect as they did immediately before the commencement of these Regulations as if they had not been amended.

(2) These Regulations do not apply to a request made by the Lord Chancellor under section 87(1) where—

- (a) the request is made on or after the commencement of these Regulations; and
- (b) the Lord Chancellor had given the Commission notice under section 94 before the commencement of these Regulations that the Lord Chancellor had expected to make such a request.

(3) Where paragraph (2) applies Part 4 of Schedule 13 to the Crime and Courts Act 2013 is to be treated as if it had not come into force and the enactments which it amends shall continue to have effect as they did immediately before 1<sup>st</sup> October 2013 as if they had not been amended.

**49.** Where a request is made to a person under section 9(1) of the Senior Courts Act 1981 before the commencement of these Regulations, Part 4 of Schedule 13 and paragraph 1 of Schedule 14 to the Crime and Courts Act 2013 are to be treated as if they had not come into force and section 9(1) of the Senior Courts Act shall continue to have effect as it did immediately before the commencement of these Regulations.

Lord Chancellor

Date

I agree

Lord Chief Justice of England and Wales

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(a) Amendments to Schedule 2 to the Tribunals, Courts and Enforcement Act 2007 are made by paragraph 45 of Schedule 13 to the Crime and Courts Act 2013.

Date

## **EXPLANATORY NOTE**

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

These Regulations make provision for the selection process applicable to the appointment of a variety of judicial office holders. Section 20 of, and Schedule 13 to, the Crime and Courts Act (c.22) made a number of amendments to Part 4 of, and Schedule 14 to, the Constitutional Reform Act 2005 (c.4). In particular, provisions relating to selection of a variety of judicial office holders are no longer wholly set out in the 2005 Act itself but also in regulations made under sections 94(1) and 94C(1) of the 2005 Act.

Part 1 of these Regulations contains a number of definitions applicable to these Regulations. It also disapplies section 16(2)(a) or (b) of the Constitutional Reform Act 2005 to the functions of the Lord Chief Justice under regulations 5 and 11. Section 16 contains provisions relating to where the Lord Chief Justice is incapacitated or the office is vacant and who may exercise functions of the Lord Chief Justice in such circumstances. Regulations 5 and 11 contain alternative provisions about who should exercise the functions of the Lord Chief Justice under those regulations where the office of the Lord Chief Justice is vacant or the Lord Chief Justice is incapacitated. Part 1 also defines “non-legally qualified” for the purposes of sections 70, 75B and 79 of the Constitutional Reform Act 2005.

Part 2 of these Regulations contains provisions about the selection process to be applied for the appointment of a person to the office of Lord Chief Justice. It makes provision for the composition of a selection panel, consultation by that panel, reporting of its selection to the Lord Chancellor and the Lord Chancellor’s options when deciding upon that selection.

Part 3 of these Regulations contains similar provisions about the selection process to be applied for the appointment of a person to the office of Head of Division, Part 4 relates to the selection process to be applied for the appointment of a persons to the office of Senior President of Tribunals and Part 5 relates to the selection process to be applied for the appointment of a person as a Lord Justice of Appeal.

Part 6 of these Regulations makes provision for the selection process to be applied for the appointment of persons to the office of puisne judge of the High Court or to a judicial office listed in Schedule 14 to the Constitutional Reform Act 2005. Under section 88 of the Constitutional Reform Act 2005 the Judicial Appointments Commission must determine the selection process to be applied. Part 6 contains provisions about who the Commission must or may consult and reporting its selection to the appropriate authority. Regulation 36 contains provisions about the Commission’s duty under section 94 of the Constitutional Reform Act 2005 to identify persons for future requests that the Lord Chancellor expects to make.

Part 7 of these Regulations contain provisions about the effect of the acceptance by the appropriate authority of a selection by a selection panel or the Judicial Appointments Commission. It includes the making of arrangements for health assessments if required and the circumstances in which an accepted selection may be disregarded.

Part 8 of these Regulations makes provision regarding the selection process to be applied for the selection of a person for membership of a pool for requests under section 9(1) of the Senior Courts Act 1981 (c.54). Section 9(1) enables the appropriate authority within that provision to request a specified judicial office holder to provide assistance in dealing with the business of the Senior Courts. Under section 88 of the Constitutional Reform Act 2005 the Judicial Appointments Commission must determine the selection process to be applied for membership of a pool for particular requests for assistance. Part 8 contains provisions about the Commission reporting its selection to the Lord Chief Justice, the Lord Chief Justice’s power to reject or require the reconsideration of, initial or subsequent selections and the effect of an acceptance of a selection.

Part 9 of these Regulations contain provisions about which functions under these Regulations the Lord Chief Justice may delegate to a senior judge and which functions under these Regulations the Senior President of Tribunals can and cannot delegate.

Part 10 of these Regulations contain transitional provisions. These Regulations apply to all appointments where a request regarding selection is made on or after the commencement of these Regulations. A selection which is in train at that time is unaffected. Requests under section 9(1) of the Senior Courts Act to assist with the business of the Senior Courts that are made before the commencement of these Regulations is unaffected.

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