STATUTORY INSTRUMENTS

2006 No. 676

The Judicial Discipline (Prescribed Procedures) Regulations 2006

PART 8

Miscellaneous

Deferral of consideration of a case

- **36.**—(1) Where a case arises out of court or tribunal proceedings in which a complainant is involved, or in which the judicial office holder sits, the Lord Chancellor and the Lord Chief Justice may defer consideration of the case until the Office for Judicial Complaints is notified that the court proceedings have been concluded.
- (2) Where a case arises out of court or tribunal proceedings in which a judicial office holder is a party, the Lord Chancellor and the Lord Chief Justice may defer consideration of the case until the Office for Judicial Complaints is notified that the court proceedings have been concluded.
- (3) Where the case relates to disciplinary proceedings by a professional body, the Lord Chancellor and the Lord Chief Justice may defer consideration of the case until the Office for Judicial Complaints is notified that the disciplinary proceedings have been concluded.
- (4) Where the Lord Chancellor and the Lord Chief Justice defer consideration of a case under the previous paragraph, they may draw the case to the attention of the professional body responsible for the disciplinary proceedings.
- (5) "Professional body" means the Law Society of England and Wales, the Law Society of Scotland, the Law Society of Northern Ireland, the Bar Council of England and Wales, the Faculty of Advocates, the Bar Council of Northern Ireland, the General Medical Council, or any other body which regulates professional practice.

Notification of a deferral

- **37.**—(1) Where a judicial office holder has been informed that he is the subject of a complaint, or otherwise the subject of disciplinary proceedings, the Office for Judicial Complaints must inform him of the decision to defer consideration of the case.
- (2) Where consideration of a case is deferred, and the complainant has not withdrawn his complaint, the Office for Judicial Complaints must notify the complainant of the decision to defer consideration of the case.

Revival of a deferred case

38. When consideration of a case arising out of a complaint has been deferred under regulation 36, and is revived on the conclusion of any proceedings to which that regulation refers, the subject matter of the case shall be limited to that which formed the subject matter of the original complaint, unless the Lord Chancellor or the Lord Chief Justice decide otherwise.

Interim suspension

- **39.**—(1) If the Lord Chief Justice decides, with the agreement of the Lord Chancellor, to suspend a judicial office holder from his judicial office under section 108(4)(a), (6) or (7) of the Act, he must—
 - (a) notify the judicial office holder of the proposed suspension, the reasons for it and the time when it is proposed that it will come into effect;
 - (b) notify the judicial office holder of the factors that will be taken into account in determining when the suspension will end; and
 - (c) invite him to make representations.
- (2) The judicial office holder must make any representations within ten business days of notification under paragraph (1)(a).
- (3) When any of the factors which the Lord Chief Justice and the Lord Chancellor have indicated would be taken into account in accordance with paragraph (1)(b) become operative, or any other matter which the Lord Chief Justice and the Lord Chancellor consider relevant arises, the Lord Chief Justice and the Lord Chancellor must—
 - (a) decide whether continuation of the suspension is appropriate;
 - (b) notify the judicial office holder of their decision under sub-paragraph (a) and of the reasons for that decision; and
 - (c) invite the judicial office holder to make representations.
- (4) The judicial office holder must make any representations within ten business days of notification under paragraph (3).

Disclosure of information

- **40.**—(1) The Lord Chancellor and the Lord Chief Justice shall inform the complainant whether his complaint has been upheld or dismissed, and what if any disciplinary action they have agreed to take.
- (2) The Lord Chancellor and the Lord Chief Justice shall agree upon the terms of any information given under paragraph (1) and the manner in which it shall be given.
- (3) The Lord Chancellor and the Lord Chief Justice may disclose information about disciplinary proceedings or the taking of disciplinary action against identified or identifiable judicial office holders to anyone to whom they agree it is necessary to give such information.
- (4) The Lord Chancellor and the Lord Chief Justice may agree to the public disclosure of information about disciplinary action where they agree that the maintenance of public confidence in the judiciary requires that such information be disclosed.

Procedural requirements in relation to reviews by the Ombudsman

- **41.**—(1) If the Ombudsman requests from any person information for the purposes of a review carried out under section 111 of the Act, and such information is not provided within ten business days from notification of the request, or within such other period as he indicates, he may—
 - (a) prepare his review without regard to that information, and
 - (b) may disregard any representations made out of time by the person concerned.
- (2) The Lord Chancellor, the Lord Chief Justice, the Office for Judicial Complaints, the nominated judge, an advisory committee, a President, an investigating judge, and a review body convened under Part 7 must provide the Ombudsman with such information as he may reasonably require for the purposes of a review carried out under section 111 or section 113 of the Act.

(3) Where the Ombudsman directs that an investigation should be undertaken or undertaken again by virtue of section 111(7)(b), the case shall be subject to Part 4 of these regulations.

Delegation

42. The Lord Chief Justice may delegate any of his functions under these regulations, other than those under regulations 9(2) and 10(2).

Scotland and Northern Ireland: eligibility to exercise functions

- **43.**—(1) Where the subject of the disciplinary proceedings is a member of a tribunal which has jurisdiction throughout Great Britain or the United Kingdom, the following office holders may also be nominated as a nominated judge under regulation 17, an investigating judge under regulation 20 or a member of a review body under regulation 28(1)(a) and (b)—
 - (a) where the subject of the disciplinary proceedings exercises functions wholly or mainly in Scotland, a sheriff, a sheriff principal or a judge of the Court of Session;
 - (b) where the subject of the disciplinary proceedings exercises functions wholly or mainly in Northern Ireland, the holder of an office listed in Schedule 1 to the Justice (Northern Ireland) Act 2002(1).

Scotland and Northern Ireland: Judicial Appointments and Conduct Ombudsman

- **44.** Sections 110 to 113 of the Act apply—
 - (a) in relation to judicial office holders who exercise functions wholly or mainly in Scotland as if in section 110(8)(b) the reference to the Lord Chief Justice of England and Wales were a reference to the Lord President of the Court of Session; and
 - (b) in relation to judicial office holders who exercise functions wholly or mainly in Northern Ireland as if in section 110(8)(b) the reference to the Lord Chief Justice of England and Wales were a reference to the Lord Chief Justice of Northern Ireland.

Treatment of transitional complaints

45. These regulations apply to any complaint made before 3rd April 2006 which has not been withdrawn, dismissed or determined, but Parts 2 to 5 do not apply in a case where a judicial investigation has started before that date.