



# Scottish Civil Justice Council and Criminal Legal Assistance Act 2013

2013 asp 3

## PART 1

### SCOTTISH CIVIL JUSTICE COUNCIL

#### *Membership*

#### **6 Composition of the Council**

- (1) The Council is to have not more than 20 members and is to be comprised of—
- (a) the Lord President,
  - (b) the Chief Executive of the Scottish Court Service,
  - (c) the principal officer of the Scottish Legal Aid Board,
  - (d) 1 member appointed by the Scottish Ministers under subsection (2),
  - (e) at least 4 judges (“judicial members”), including a minimum of—
    - (i) 1 judge of the Court of Session, and
    - (ii) 1 sheriff principal or sheriff,
  - (f) at least 2 practising advocates (“advocate members”),
  - (g) at least 2 practising solicitors (“solicitor members”),
  - (h) at least 2 persons (“consumer representative members”) who, between them, appear to the Lord President to have—
    - (i) experience and knowledge of consumer affairs,
    - (ii) knowledge of the non-commercial legal advice sector, and
    - (iii) an awareness of the interests of litigants in the civil courts, and
  - (i) up to 6 other persons considered by the Lord President to be suitable to be members of the Council (“LP members”).
- (2) The Scottish Ministers must appoint as a member a person who is a member of staff of the Scottish Government and whom they consider to be suitable to be a member of the Council.

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*Status: This is the original version (as it was originally enacted).*

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- (3) The Scottish Ministers may by order amend subsection (1) by substituting for the number of members (or the minimum number in a category of membership) for the time being specified there such other number as they think fit.
- (4) Before making an order under subsection (3) the Scottish Ministers must consult the Lord President.
- (5) The power to make an order under subsection (3) includes power to make such supplementary, incidental, consequential, transitional, transitory or saving provision as the Scottish Ministers consider appropriate.
- (6) But such power does not include power to modify the description of a category of membership described in subsection (1) or to add a category of membership.
- (7) Orders under subsection (3) are subject to the affirmative procedure.

## **7 Lord President appointment process**

- (1) The Lord President must appoint persons to be members of the Council in respect of the categories of membership described in section 6(1)(e) to (i) and ensure that the number of members in each such category of membership is maintained at the required level.
- (2) The Lord President must prepare and publish a statement of appointment practice setting out the process which the Lord President will follow for appointing—
  - (a) advocate members,
  - (b) solicitor members,
  - (c) consumer representative members, and
  - (d) LP members.
- (3) In preparing the statement of appointment practice the Lord President must have regard to the principles in subsection (4).
- (4) The principles are—
  - (a) appointments to the Council should be made fairly and openly, and
  - (b) so far as reasonably practicable, all eligible persons should be afforded an opportunity to be considered for appointment.
- (5) The statement of appointment practice must include a requirement for the Lord President to consult—
  - (a) the Faculty of Advocates before appointing an advocate member,
  - (b) the Council of the Law Society of Scotland before appointing a solicitor member,
  - (c) the Scottish Ministers before appointing—
    - (i) a consumer representative member, or
    - (ii) a LP member.

## **8 Tenure**

- (1) The Lord President, the Chief Executive of the Scottish Court Service and the principal officer of the Scottish Legal Aid Board are members of the Council by virtue of holding their respective offices.

- (2) A member appointed by the Scottish Ministers holds office until such time as the Scottish Ministers appoint a replacement member.
- (3) A judicial member holds office for a period of 3 years unless, prior to the expiry of that period, the Lord President replaces the member with another judicial member or requires the member to leave office.
- (4) Any other member holds office for a period of 3 years.
- (5) A member appointed under section 7(1) ceases to hold office—
  - (a) at the end of a period of appointment,
  - (b) upon giving written notice of resignation to the Lord President,
  - (c) on becoming disqualified from holding office as a member or on being removed from such office (see section 9),
  - (d) on ceasing to fall within the category of membership in respect of which the member was appointed.
- (6) For the purposes of subsection (5)(d), a LP member ceases to fall within that category of membership where, in the opinion of the Lord President, the basis of the LP member's appointment has materially changed.
- (7) A person who is or has been a member of the Council may be reappointed (whether in respect of the same or a different category of membership) for further periods.

## **9 Disqualification and removal from office**

- (1) A person is disqualified from appointment under section 7(1) as a member of the Council, and from holding office as such a member, if the person is or becomes—
  - (a) a member of the Scottish Parliament,
  - (b) a member of the House of Commons,
  - (c) a member of the European Parliament,
  - (d) a councillor of any council constituted under section 2 of the Local Government etc. (Scotland) Act 1994,
  - (e) a member of the Scottish Government, or
  - (f) a Minister of the Crown.
- (2) The Lord President may, by notice in writing, remove any member appointed under section 7(1) if satisfied that the member—
  - (a) is unfit to be a member by reason of inability, neglect of duty or misbehaviour, or
  - (b) is otherwise unsuitable to continue as a member.
- (3) The Lord President must consult the Scottish Ministers before removing—
  - (a) a consumer representative member, or
  - (b) a LP member.

## **10 Expenses and remuneration**

- (1) The Scottish Court Service may pay such expenses as it thinks fit to—
  - (a) a member of the Council, and

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- (b) a person appointed under section 13(2) as a member of a committee of the Council.
- (2) The Scottish Court Service may pay such remuneration as it thinks fit to—
- (a) an advocate member,
  - (b) a solicitor member,
  - (c) a consumer representative member,
  - (d) a LP member, and
  - (e) a person (other than one mentioned in subsection (3)) appointed under section 13(2) as a member of a committee of the Council.
- (3) Remuneration is not to be paid under subsection (2) to a person who is—
- (a) a member of staff of the Scottish Legal Aid Board, or
  - (b) a member of staff of the Scottish Administration.