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## SCHEDULES

### SCHEDULE 1

#### SENIOR PRESIDENT OF TRIBUNALS

#### PART 2

##### SELECTION BY THE JUDICIAL APPOINTMENTS COMMISSION

###### *Eligibility for selection*

- 3 A person is eligible for selection in pursuance of a request under paragraph 2(5) only if—
- (a) he satisfies the judicial-appointment eligibility condition on a 7-year basis,
  - (b) he is an advocate or solicitor in Scotland of at least seven years' standing, or
  - (c) he is a barrister or solicitor in Northern Ireland of at least seven years' standing.

###### *The selection process*

- 4 In Chapter 2 of Part 4 of the Constitutional Reform Act 2005 (c. 4) (appointments), after section 75 insert—

###### *“Senior President of Tribunals*

#### **75A Sections 75B to 75G apply where request made for selection**

- (1) Sections 75B to 75G apply where the Lord Chancellor makes a request to the Commission under paragraph 2(5) of Schedule 1 to the Tribunals, Courts and Enforcement Act 2007 (request for person to be selected for recommendation for appointment to the office of Senior President of Tribunals).
- (2) Those sections are subject to section 95 (withdrawal and modification of requests).

#### **75B Selection process**

- (1) On receiving a request the Commission must appoint a selection panel.
- (2) The panel must —
  - (a) determine the selection process to be applied,
  - (b) apply the selection process, and
  - (c) make a selection accordingly.

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- (3) As part of the selection process the panel must consult—
  - (a) the Lord Chief Justice, if not a member of the panel,
  - (b) the Lord President of the Court of Session, if not a member of the panel, and
  - (c) the Lord Chief Justice of Northern Ireland, if not a member of the panel.
- (4) One person only must be selected for the recommendation to which a request relates.
- (5) Subsection (4) applies to selection under this section and to selection under section 75G.
- (6) A selection panel is a committee of the Commission.

### **75C Selection panel**

- (1) The selection panel must consist of four members.
- (2) The first member is the Lord Chief Justice, or his nominee.
- (3) The second member is a person designated by the Lord Chief Justice.
- (4) Unless subsection (7) applies, the third member is the chairman of the Commission or his nominee.
- (5) The fourth member is a lay member of the Commission designated by the third member.
- (6) Subsection (7) applies if—
  - (a) there is no chairman of the Commission, or
  - (b) the chairman of the Commission is unavailable and has not nominated a person under subsection (4).
- (7) In those cases the third member is a lay member of the Commission selected by the lay members of the Commission other than the chairman.
- (8) A nominee of the Lord Chief Justice must be a Head of Division or a Lord Justice of Appeal.
- (9) The person designated under subsection (3) must be—
  - (a) a person who holds, or has held, the office of Senior President of Tribunals,
  - (b) a person who holds, or has held, office as a Chamber President of a chamber of the First-tier Tribunal or of a chamber of the Upper Tribunal, or
  - (c) a person who holds, or 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—
    - (i) a person who holds the office of Senior President of Tribunals, or
    - (ii) a person who holds office as a Chamber President of a chamber of the First-tier Tribunal, or

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(iii) a person who holds office as a Chamber President of a chamber of the Upper Tribunal.

- (10) Before designating a person under subsection (3), the Lord Chief Justice must consult—
- (a) the Lord President of the Court of Session, and
  - (b) the Lord Chief Justice of Northern Ireland.
- (11) A person may not be appointed to the panel if he is willing to be considered for selection.
- (12) A person may not be appointed to the panel as the nominee of more than one person.
- (13) A person appointed to the panel otherwise than as a nominee may not be a nominee.
- (14) The first member is the chairman of the panel.
- (15) On any vote by the panel the chairman of the panel has an additional, casting vote in the event of a tie.

#### **75D Report**

- (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 panel must provide any further information the Lord Chancellor may require.

#### **75E The Lord Chancellor's options**

- (1) This section refers to the following stages—

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<i>Stage 1:</i>	where a person has been selected under section 75B
<i>Stage 2:</i>	where a person has been selected following a rejection or reconsideration at stage 1
<i>Stage 3:</i>	where a person has been selected following a rejection or reconsideration at stage 2

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- (2) At stage 1 the Lord Chancellor must do one of the following—
- (a) accept the selection;
  - (b) reject the selection;
  - (c) require the selection panel to reconsider the selection.

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- (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;
  - (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 he 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.

#### **75F Exercise of powers to reject or require reconsideration**

- (1) The power of the Lord Chancellor under section 75E 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 Senior President of Tribunals.
- (2) The power of the Lord Chancellor under section 75E 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 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.

#### **75G Selection following rejection or requirement to reconsider**

- (1) If under section 75F 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 section.
- (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 is following 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.

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(5) Subsections (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.”

*Withdrawal and modification of requests under paragraph 2(5)*

- 5 (1) Section 95 of the Constitutional Reform Act 2005 (c. 4) (withdrawal and modification of requests) is amended as follows.
- (2) In subsection (1) (application of section), after “87” insert “ or paragraph 2(5) of Schedule 1 to the Tribunals, Courts and Enforcement Act 2007 ”.
- (3) In subsection (4) (limitation on withdrawal of request under subsection (2)(c)), after “73(2),” insert “ 75E(2), ”.

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