
STATUTORY INSTRUMENTS

2013 No. 2193

The Supreme Court (Judicial Appointments) Regulations 2013

PART 5

Selection process and selection

Consultation

18.—(1) Subject to paragraph (2), as part of the selection process under section 27(1) of the 2005 Act, a selection commission must consult each of the following—

- (a) such of the senior judges who are not members of the selection commission and who are not willing to be considered for selection;
- (b) the Lord Chancellor;
- (c) the First Minister in Scotland;
- (d) the First Minister for Wales;
- (e) the Northern Ireland Judicial Appointments Commission.

(2) If for any part of the United Kingdom no judge of the courts of that part is to be consulted under paragraph (1)(a), the selection commission must consult as part of the selection process the most senior judge of the courts of that part who is not a member of the selection commission and who is not willing to be considered for selection.

Report

19.—(1) After complying with section 27 of the 2005 Act the selection commission must submit a report to the Lord Chancellor.

- (2) The report must—
 - (a) state who has been selected;
 - (b) state the judges consulted under regulation 18(1)(a) and (2);
 - (c) 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 commission must provide any further information which the Lord Chancellor may require.
- (5) Upon receiving the report the Lord Chancellor must consult each of the following—
 - (a) the senior judges consulted under regulation 18(1)(a);
 - (b) any judge consulted under regulation 18(2);
 - (c) the First Minister in Scotland;
 - (d) the First Minister for Wales;
 - (e) the Northern Ireland Judicial Appointments Commission.

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 27 of the 2005 Act;
 - (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) notify the selection;
 - (b) reject the selection; or
 - (c) require the selection commission to reconsider the selection.
- (3) At stage 2 the Lord Chancellor must do one of the following—
- (a) notify the selection;
 - (b) reject the selection, but only if it was made following a reconsideration at stage 1; or
 - (c) require the selection commission to reconsider the selection, but only if it was made following a rejection at stage 1.
- (4) At stage 3 the Lord Chancellor must notify the selection, unless paragraph (5) applies and the Lord Chancellor makes a notification 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 notify that person's name to the Prime Minister.
- (6) In this regulation references to the Lord Chancellor notifying a selection are references to the Lord Chancellor notifying to the Prime Minister the name of the person selected.

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 concerned.
- (2) The power of the Lord Chancellor under regulation 20 to require the selection commission 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 concerned;
 - (b) there is evidence that the person is not the best candidate on merit; or
 - (c) there is not enough evidence that if the person were appointed the judges of the Supreme Court would between them have knowledge of, and experience of practice in, the law of each part of the United Kingdom.
- (3) The Lord Chancellor must give the selection commission 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 a reconsideration of a selection, the selection commission must select a person in accordance with this regulation.
- (2) If the Lord Chancellor rejects a selection, the selection commission—
- (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 the selection to be reconsidered, the selection commission—
 - (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 commission must inform the Lord Chancellor of the person selected following a rejection or requirement to reconsider.