

# JUDICIARY AND COURTS (SCOTLAND) ACT 2008

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## EXPLANATORY NOTES

### THE ACT

#### *Schedule 1 – the Judicial Appointments Board for Scotland*

#### **Resignation and removal of members**

136. [Paragraph 7](#) sets out the procedure a member wishing to resign should follow. This involves giving notice in writing to whoever appointed them – that is, the Lord President or the Scottish Ministers – and providing a copy of the notice to the other appointing office-holder. For example, a resigning lay member would send their notice to the Scottish Ministers, copied to the Lord President. Sub-paragraph (3) provides that the period of notice is 6 months unless agreed otherwise by office-holder who has appointed the member.
137. [Paragraph 8](#) sets out the procedure for removing a member and the circumstances in which a member may be removed. Responsibility for the removal of judicial members lies with the Lord President. Sub-paragraph (1) provides that removal must be in writing and that the Lord President must consult the Chairing Member of the Board and the Scottish Ministers before satisfying himself that grounds for removal exist. Equivalent procedures are set out at sub-paragraph (2) for the Scottish Ministers in respect of the removal of legal and lay members. However there is no duty to consult the Chairing Member if that member is the subject of the removal. Sub-paragraph (3) provides that a member must be afforded an opportunity to be heard by the Lord President or as the case may be the Scottish Ministers before being removed from office. The grounds for removal are listed at sub-paragraph (4).
138. In the event that one of the grounds for removal is satisfied, removal from office is not mandatory. Paragraph 8(1) and (2) leave the Lord President and the Scottish Ministers with discretion in the matter. For example, if a Board member was convicted of a very minor offence that did not give rise to doubt about their fitness to continue in office, the Lord President or the Scottish Ministers may consider that they need not be removed.
139. The conduct of members of the Board is to fall within the remit of the Standards Commission for Scotland. For that reason paragraph 19 applies the provisions of the [Ethical Standards in Public Life etc. \(Scotland\) Act 2000 \(asp 7\)](#) to the Board. As a devolved public body the Board must produce a code of conduct for its members.