

SCHEDULES

SCHEDULE 13

JUDICIAL APPOINTMENTS

PART 3

JUDICIAL APPOINTMENTS COMMISSION

Introductory

- 16 Part 1 of Schedule 12 to the Constitutional Reform Act 2005 (the members of the Judicial Appointments Commission) is amended as follows.

Composition of the Judicial Appointments Commission

- 17 In paragraph 1 (Commission consists of lay chairman and 14 other Commissioners) for paragraph (b) substitute—
- “(b) such number of other Commissioners as the Lord Chancellor may specify by regulations made with the agreement of the Lord Chief Justice.”.
- 18 Omit paragraphs 2(2) to (5) and 4 to 6 (Commissioners other than the lay chairman are to be drawn in specified proportions from among judicial office holders, practising lawyers and lay persons).
- 19 After paragraph 3 (civil servants may not be appointed as Commissioners) insert—
- “3A The number of Commissioners who are holders of judicial office must be less than the number of Commissioners (including the chairman) who are not holders of judicial office.
- 3B (1) The Lord Chancellor may, by regulations made with the agreement of the Lord Chief Justice, make provision about the composition of the Commission.
- (2) The power to make regulations under this paragraph is to be exercised so as to ensure that the Commission’s members include—
- (a) holders of judicial office,
- (b) persons practising or employed as lawyers, and
- (c) lay members.
- (3) Regulations under this paragraph may (in particular)—
- (a) make provision about the number, maximum number or minimum number of Commissioners of a particular description;
- (b) make provision about eligibility for appointment as a Commissioner, eligibility for appointment as the chairman or

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eligibility for appointment as a Commissioner of a particular description.”

- 3C The Lord Chancellor may by regulations made with the agreement of the Lord Chief Justice—
- (a) define “lay member”, in relation to the Commission, for the purposes of this Part of this Act;
 - (b) define “holder of judicial office” for the purposes of paragraphs 3A, 3B(2)(a), 11 and 20(5).”

Selection of Commissioners

- 20 For paragraphs 7 to 10 (selection of Commissioners) substitute—
- “6A (1) The Lord Chancellor may, by regulations made with the agreement of the Lord Chief Justice, make provision for or in connection with the selection or nomination of persons to be recommended for appointment under paragraph 1.
- (2) Regulations under this paragraph may (in particular)—
- (a) provide for selection or nomination to be by a person, or body, specified in or appointed under the regulations;
 - (b) make provision about selection procedure, including—
 - (i) provision for a selector to determine the selector’s own procedure or for selection procedure to be otherwise determined under the regulations;
 - (ii) provision as to matters to which a selector is to, or may or may not, have regard;
 - (iii) provision requiring that selection is carried out with a view to ensuring that there is a Commissioner with special knowledge of a particular geographical area or of a particular matter;
 - (c) make provision for the payment to selectors of remuneration, fees or expenses.
- 6B The powers to make regulations under this Part of this Schedule are to be exercised with a view to ensuring, so far as may be practicable, that the Commissioners who are lay members include at any time at least one person who appears to have special knowledge of Wales.”
- 21 (1) Paragraph 11 (vice-chairman) is amended as follows.
- (2) In sub-paragraph (1) (most senior judicial member is vice-chairman) for “Commissioner who is the most senior of the persons appointed as judicial members” substitute “most senior of the holders of judicial office who are Commissioners”.
 - (3) In sub-paragraph (2) (meaning of seniority for the purposes of sub-paragraph (1)) for the words after “sub-paragraph (1)” substitute “seniority is to be determined in accordance with regulations made by the Lord Chancellor with the agreement of the Lord Chief Justice.”
 - (4) In sub-paragraph (3) (exercise by vice-chairman of functions of chairman) for the words from “other” to the end substitute “other than—
 - (a) any functions as a member of a commission convened under section 26(5) or (5A) or of a panel appointed under section 70(1),

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- 75B(1) or 79(1) (including functions of chairing such a commission or panel), and
- (b) any functions specified in regulations made by the Lord Chancellor with the agreement of the Lord Chief Justice.”

Commissioners’ terms of office

- 22 For paragraph 13 (maximum term of office for a Commissioner) substitute—
- “13 (1) The Lord Chancellor may, by regulations made with the agreement of the Lord Chief Justice, make provision about the periods for which a Commissioner may be appointed or hold office.
- (2) Regulations under this paragraph may (in particular) make provision about—
- (a) the number of times a person may be appointed as a Commissioner;
- (b) the length of any particular appointment;
- (c) the total length of a person’s appointments or the total period for which a person may hold office as a Commissioner.”
- 23 For sub-paragraphs (1) and (2) of paragraph 14 (person ceases to be a Commissioner on ceasing, for certain reasons, to be eligible for appointment) substitute—
- “(1) The Lord Chancellor may by regulations made with the agreement of the Lord Chief Justice—
- (a) provide for a Commissioner to cease to be a Commissioner on ceasing, or on ceasing for a particular reason, to be eligible for appointment as a Commissioner;
- (b) provide for a Commissioner other than the chairman to cease to be a Commissioner on ceasing, or on ceasing for a particular reason, to be eligible for appointment as a Commissioner of a particular description;
- (c) provide for the chairman—
- (i) to cease to be the chairman without ceasing to be a Commissioner, or
- (ii) to cease to be the chairman and cease to be a Commissioner,
- on ceasing, or on ceasing for a particular reason, to be eligible for appointment as the chairman;
- (d) confer power to disapply or suspend the operation of provision under paragraph (a), (b) or (c) in individual cases.”

Supplementary amendments

- 24 After paragraph 17 insert—

“Regulations

- 17A Regulations under this Part of this Schedule may—
- (a) make different provision for different purposes;
- (b) include transitional or transitory provision or savings.”

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- 25 In Part 2 of Schedule 12 to the Constitutional Reform Act 2005 (Judicial Appointments Commission) in paragraph 20(5) (committee to which Commission delegates a selection function must include at least one judicial member and one lay member) for “judicial member and” substitute “who is a holder of judicial office and at least”.
- 26 In section 122 of that Act (interpretation of Part 4) for the definition of “lay member” substitute—
 ““lay member”, in relation to the Commission, has such meaning as may be given by regulations under paragraph 3C(a) of Schedule 12;”.
- 27 In section 144(5)(e) of that Act (orders under paragraph 5 of Schedule 12 are subject to affirmative parliamentary procedure) for “an order under paragraph 5” substitute “regulations under Part 1”.

Consequential repeal of other legislation

- 28 In Schedule 8 to the Tribunals, Courts and Enforcement Act 2007 omit paragraph 65 (which amended paragraph 2 of Schedule 12 to the Constitutional Reform Act 2005).