
STATUTORY INSTRUMENTS

2013 No. 2192

The Judicial Appointments Regulations 2013

PART 4

Selection of Senior President of Tribunals

Membership of selection panel

17.—(1) A selection panel appointed under section 75B(1) to select a person for appointment to the office of Senior President of Tribunals must consist of five members.

(2) The first member is the Lord Chief Justice or the Lord Chief Justice's nominee.

(3) The second member is a person designated by the first member.

(4) Unless paragraph (12) applies, the third member is the chairman of the Commission or the chairman of the Commission's nominee.

(5) The fourth member is a lay member of the Commission designated by the third member.

(6) The fifth member is a person designated by the first member.

(7) A nominee of the first member under paragraph (2) must be a Head of Division or Lord Justice of Appeal.

(8) The second member must be—

(a) a person who has held but who does not currently hold the office of Senior President of Tribunals;

(b) a person who holds, or who has held, office as a Chamber President of a chamber of the First-tier Tribunal or of a chamber of the Upper Tribunal;

(c) a person who is, or who has been, a judge of the Employment Appeal Tribunal nominated under section 22(1)(a) or (b) of the Employment Tribunals Act 1996⁽¹⁾;

(d) a person who is, or who has been, the President of Employment Tribunals (England and Wales) appointed under regulation 4(1) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004⁽²⁾;

(e) a person who is, or who has been, the President of Employment Tribunals (Scotland) appointed under regulation 4(2) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004⁽³⁾; or

(f) a person who holds, or who 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 a person who holds one of the offices referred to in sub-paragraphs (a) to (e).

(9) Before designating a person under paragraph (3), the first member must consult—

(1) 1996 c.17. Section 22(1)(a) has been amended by sections 15(1) and 146 of, and Schedule 4, Part 1, and Schedule 18, Part 2, to the Constitutional Reform Act 2005.

(2) S.I. 2004/1861. Regulation 4(1) has been amended by S.I. 2008/2683.

(3) Regulation 4(2) has also been amended by S.I. 2008/2683.

- (a) the Lord President of the Court of Session; and
 - (b) the Lord Chief Justice of Northern Ireland.
- (10) The person designated by the first member under paragraph (6) must be—
- (a) a member of the Commission;
 - (b) a member of the Judicial Appointments Board for Scotland; or
 - (c) a member of the Northern Ireland Judicial Appointments Commission.
- (11) Before designating a person under paragraph (6), the first member must consult—
- (a) the chairman of the Commission;
 - (b) the Chairing Member of the Judicial Appointments Board for Scotland appointed under paragraph 9 of schedule 1 to the Judiciary and Courts (Scotland) Act 2008⁽⁴⁾; and
 - (c) the chairman of the Northern Ireland Judicial Appointments Commission appointed under section 3 of the Justice (Northern Ireland) Act 2002⁽⁵⁾.
- (12) If—
- (a) there is no chairman of the Commission;
 - (b) the chairman of the Commission is incapacitated; or
 - (c) the chairman of the Commission is unavailable and has not nominated a person under paragraph (4),
- the third member is a lay member of the Commission selected by the lay members of the Commission other than the chairman of the Commission.
- (13) Only a lay member of the Commission may be a nominee under paragraph (4).
- (14) The following also apply to nominees, or those designated, under this regulation—
- (a) a person may not be a nominee, or a designated member, if that person is disqualified;
 - (b) a person may not be appointed to the selection panel as the nominee of, or designated by, more than one person;
 - (c) a person appointed to the selection panel otherwise than as a nominee, or as a designated member, may not be a nominee or a designated member.
- (15) The first member is the chairman of the selection panel.
- (16) A person is disqualified for the purposes of this regulation if—
- (a) the person is the holder of the office of Senior President of Tribunals;
 - (b) the office of Senior President of Tribunals is vacant and the person is the immediately previous holder of that office; or
 - (c) the person is willing to be considered for selection.
- (17) Paragraph (18) applies where a person chooses a person to be a member of a selection panel (whether as a nominee, as a designated member or otherwise).
- (18) The person making the choice must, in doing so, have regard (alongside all other relevant considerations) to the fact that it is desirable that the members of the selection panel should include—
- (a) both women and men; and
 - (b) members drawn from a range of different racial groups (within the meaning of section 9(3) of the Equality Act 2010).

(4) 2008 asp 6.

(5) 2002 c.26.

Consultation

18.—(1) If practicable, the selection panel must consult, about the exercise of its functions under section 75B, the current holder of the office of Senior President of Tribunals.

(2) As part of the selection process under section 75B, the selection panel must consult the Lord Chancellor.

Report

19.—(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 selection panel must provide any further information which the Lord Chancellor may require.

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 75B for appointment to the office of Senior President of Tribunals.
- (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) accept the selection;
- (b) reject the selection; or
- (c) require the selection panel to reconsider the selection.

(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; or
- (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 paragraph (5) applies and the Lord Chancellor 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.

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 of Senior President of Tribunals.

(2) The power of the Lord Chancellor under regulation 20 to require the selection panel to reconsider a selection at stage 1 or 2 is exercisable only on the ground 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.

Selection following rejection or requirement to reconsider

22.—(1) If under regulation 20 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 regulation.

(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 to reconsider follows 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.

(5) Paragraphs (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(6).