
STATUTORY INSTRUMENTS

2013 No. 2192

The Judicial Appointments Regulations 2013

PART 8

Selection of a person for membership of a pool for requests under section 9(1) of the Senior Courts Act 1981

Scope

39. This part applies to selection of a person for membership of a pool for requests under section 9(1) of the Senior Courts Act 1981⁽¹⁾.

Report

40.—(1) After complying with section 88 the Commission must submit a report to the Lord Chief Justice.

(2) The report must—

- (a) describe the selection process;
- (b) state the selection made; and
- (c) contain any other information required by the Lord Chief Justice.

(3) The report must be in a form approved by the Lord Chief Justice.

(4) After submitting the report the Commission must provide any further information which the Lord Chief Justice may require.

The Lord Chief Justice's options

41.—(1) This regulation refers to the following stages—

- (a) Stage 1 – where a person has been selected under section 88(1).
- (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 Chief Justice must do one of the following—

- (a) accept the selection;
- (b) reject the selection; or
- (c) require the Commission to reconsider the selection.

(1) 1981 c.54; section 9 was amended by the Administration of Justice Act 1982 (c.53), section 58; the Judicial Pensions and Retirement Act 1993 (c.8), Schedule 6, paragraphs 5(1) and (2); the Criminal Justice and Public Order Act 1994 (c.33), section 52; the Constitutional Reform Act 2005 (c.4), Schedule 4, paragraphs 114 and 121; and by the Crime and Courts Act (c.22), Schedule 14, paragraphs 1 and 2 and Schedule 13, paragraph 52.

(3) At stage 2 the Lord Chief Justice 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 Commission to reconsider the selection, but only if it was made following a rejection at stage 1.

(4) At stage 3 the Lord Chief Justice must accept the selection unless paragraph (5) applies and the Lord Chief Justice accepts a selection under it.

(5) If a person whose selection the Lord Chief Justice required to be reconsidered at stage 1 or stage 2 was not selected again at the next stage, the Lord Chief Justice may, at stage 3, accept the selection made at that earlier stage.

Exercise of powers to reject or require reconsideration

42.—(1) The Lord Chief Justice’s power under regulation 41 to reject a selection at stage 1 or 2 is exercisable only on the ground that, in the Lord Chief Justice’s opinion, the person selected is not suitable to act as a judge of the High Court.

(2) The Lord Chief Justice’s power under regulation 41 to require the Commission to reconsider a selection at stage 1 or 2 is exercisable only on the ground that, in the Lord Chief Justice’s opinion—

- (a) there is not enough evidence that the person is suitable to act as a judge of the High Court; or
- (b) there is evidence that the person is not the best candidate on merit.

(3) The Lord Chief Justice must give the Commission reasons in writing for rejecting or requiring reconsideration of a selection.

Selection following rejection or requirement to reconsider

43.—(1) If under regulation 41 the Lord Chief Justice rejects or requires reconsideration of a selection at stage 1 or 2, the Commission must select a person in accordance with this regulation.

(2) If the Lord Chief Justice rejects a selection, the Commission—

- (a) may not select the person rejected; and
- (b) where the rejection is following a requirement to reconsider, may not select the person (if different) whose selection is reconsidered.

(3) If the Lord Chief Justice requires selection to be reconsidered, the Commission—

- (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 Commission must inform the Lord Chief Justice of any 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 section 87.

Reconsideration of decision not to select

44.—(1) This regulation applies where the Commission decides that the selection process has not identified a candidate of sufficient merit for it to make a selection.

(2) The Lord Chief Justice may require the Commission to reconsider such a decision.

(3) The Commission must inform the Lord Chief Justice of any person selected on reconsideration under this regulation.

(4) Regulations 41 to 43 apply to such a person as if the Commission had selected that person instead of making the decision reconsidered.

Effect of acceptance of selection

45.—(1) This regulation applies where the Lord Chief Justice accepts a selection made under this Part.

(2) The person selected becomes a member of the pool for requests under section 9(1) of the Senior Courts Act 1981.