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SCHEDULES

SCHEDULE 4

CHAMBERS AND CHAMBER PRESIDENTS: FURTHER PROVISION

PART 1

CHAMBER PRESIDENTS: APPOINTMENT, DELEGATION, DEPUTIES AND FURTHER PROVISION

Eligibility for appointment as Chamber President by Lord Chancellor

- 1 A person is eligible for appointment under section 7(7) only if—
- (a) he is a judge of the Upper Tribunal, or
 - (b) he does not fall within paragraph (a) but is eligible to be appointed under paragraph 1(1) of Schedule 3 as a judge of the Upper Tribunal (see paragraph 1(2) of that Schedule).

Appointment as Chamber President by Lord Chancellor: consultation and nomination

- 2 (1) The Lord Chancellor must consult the Senior President of Tribunals before the Lord Chancellor appoints under section 7(7) a person within—
- section 6(1)(a) (ordinary judge of Court of Appeal in England and Wales),
 - section 6(1)(b) (Lord Justice of Appeal in Northern Ireland),
 - section 6(1)(c) (judge of the Court of Session), or
 - section 6(1)(d) (puisne judge of the High Court in England and Wales or Northern Ireland).
- (2) If the Lord Chancellor, in exercise of his power under section 7(7) in a particular case, wishes that the person appointed should be drawn from among the ordinary judges of the Court of Appeal in England and Wales or the puisne judges of the High Court in England and Wales, the Lord Chancellor must first ask the Lord Chief Justice of England and Wales to nominate one of those judges for the purpose.
- (3) If the Lord Chancellor, in exercise of his power under section 7(7) in a particular case, wishes that the person appointed should be drawn from among the judges of the Court of Session, the Lord Chancellor must first ask the Lord President of the Court of Session to nominate one of those judges for the purpose.
- (4) If the Lord Chancellor, in exercise of his power under section 7(7) in a particular case, wishes that the person appointed should be drawn from among the Lords Justices of Appeal in Northern Ireland or the puisne judges of the High Court in Northern Ireland, the Lord Chancellor must first ask the Lord Chief Justice of Northern Ireland to nominate one of those judges for the purpose.

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- (5) If a judge is nominated under sub-paragraph (2), (3) or (4) in response to a request under that sub-paragraph, the Lord Chancellor must appoint the nominated judge as Chamber President of the chamber concerned.

Chamber Presidents: duration of appointment, remuneration etc.

- 3 (1) A Chamber President is to hold and vacate office as a Chamber President in accordance with the terms of his appointment as a Chamber President (subject to the Judicial Pensions and Retirement Act 1993 (c. 8)).
- (2) The Lord Chancellor may pay to a Chamber President such amounts (if any) as the Lord Chancellor may determine by way of—
- (a) remuneration;
 - (b) allowances;
 - (c) expenses.

Delegation of functions by Chamber Presidents

- 4 (1) The Chamber President of a chamber of the First-tier Tribunal or Upper Tribunal may delegate any function he has in his capacity as the Chamber President of the chamber—
- (a) to any judge, or other member, of either of those tribunals;
 - (b) to staff appointed under section 40(1).
- (2) A delegation under sub-paragraph (1) is not revoked by the delegator's becoming incapacitated.
- (3) Any delegation made by a person under sub-paragraph (1) that is in force immediately before the person ceases to be the Chamber President of a chamber continues in force until subsequently varied or revoked by another holder of the office of Chamber President of that chamber.
- (4) The delegation under sub-paragraph (1) of a function shall not prevent the exercise of the function by the Chamber President of the chamber concerned.
- (5) In this paragraph “delegate” includes further delegate.

Deputy Chamber Presidents

- 5 (1) The Lord Chancellor may appoint a person who is not a Deputy Chamber President of a chamber to be a Deputy Chamber President of a chamber.
- (2) The Senior President of Tribunals may appoint a person who is a Deputy Chamber President of a chamber to be instead, or to be also, a Deputy Chamber President of another chamber.
- (3) The power under sub-paragraph (1) is exercisable in any particular case only if the Lord Chancellor—
- (a) has consulted the Senior President of Tribunals about whether a Deputy Chamber President should be appointed for the chamber concerned, and
 - (b) considers, in the light of the consultation, that a Deputy Chamber President of the chamber should be appointed.
- (4) A person is eligible for appointment under sub-paragraph (1) only if—

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- (a) he is a judge of the Upper Tribunal by virtue of appointment under paragraph 1(1) of Schedule 3,
 - (b) he is a transferred-in judge of the Upper Tribunal (see section 31(2)),
 - (c) he is a judge of the Upper Tribunal by virtue of—
 - F1
.....
 - section 5(1)(e) (Social Security Commissioner for Northern Ireland),
 - section 5(1)(g) (certain judges of courts in the United Kingdom), or
 - section 5(1)(h) (deputy judge of the Upper Tribunal), or
 - (d) he falls within none of paragraphs (a) to (c) but is eligible to be appointed under paragraph 1(1) of Schedule 3 as a judge of the Upper Tribunal (see paragraph 1(2) of that Schedule).
- (5) If the Lord Chancellor, in exercise of his power under sub-paragraph (1) in a particular case, wishes that the person appointed should be drawn from among the ordinary judges of the Court of Appeal in England and Wales or the puisne judges of the High Court in England and Wales, the Lord Chancellor must first ask the Lord Chief Justice of England and Wales to nominate one of those judges for the purpose.
- (6) If the Lord Chancellor, in exercise of his power under sub-paragraph (1) in a particular case, wishes that the person appointed should be drawn from among the judges of the Court of Session, the Lord Chancellor must first ask the Lord President of the Court of Session to nominate one of those judges for the purpose.
- (7) If the Lord Chancellor, in exercise of his power under sub-paragraph (1) in a particular case, wishes that the person appointed should be drawn from among the Lords Justices of Appeal in Northern Ireland or the puisne judges of the High Court in Northern Ireland, the Lord Chancellor must first ask the Lord Chief Justice of Northern Ireland to nominate one of those judges for the purpose.
- (8) If a judge is nominated under sub-paragraph (5), (6) or (7) in response to a request under that sub-paragraph, the Lord Chancellor must appoint the nominated judge as a Deputy Chamber President of the chamber concerned.
- (9) A Deputy Chamber President is to hold and vacate office as a Deputy Chamber President in accordance with the terms of his appointment (subject to the Judicial Pensions and Retirement Act 1993 (c. 8)).
- (10) The Lord Chancellor may pay to a Deputy Chamber President such amounts (if any) as the Lord Chancellor may determine by way of—
- (a) remuneration;
 - (b) allowances;
 - (c) expenses.
- (11) In sub-paragraphs (1) and (2) “chamber” means chamber of the First-tier Tribunal or chamber of the Upper Tribunal.

Textual Amendments

- F1 Words in Sch. 4 para. 5(4)(c) omitted (15.2.2010) by virtue of [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), [Sch. 1 para. 47\(a\)](#) (with Sch. 4)

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Acting Chamber Presidents

- 6
- (1) If in the case of a particular chamber of the First-tier Tribunal or Upper Tribunal there is no-one appointed under section 7 to preside over the chamber, the Senior President of Tribunals may appoint a person to preside over the chamber during the vacancy.
 - (2) A person appointed under sub-paragraph (1) is to be known as an Acting Chamber President.
 - (3) A person who is the Acting Chamber President of a chamber is to be treated as the Chamber President of the chamber for all purposes other than—
 - (a) the purposes of this paragraph of this Schedule, and
 - (b) the purposes of the Judicial Pensions and Retirement Act 1993 (c. 8).
 - (4) A person is eligible for appointment under sub-paragraph (1) only if he is eligible for appointment as a Chamber President.
 - (5) An Acting Chamber President is to hold and vacate office as an Acting Chamber President in accordance with the terms of his appointment.
 - (6) The Lord Chancellor may pay to an Acting Chamber President such amounts (if any) as the Lord Chancellor may determine by way of—
 - (a) remuneration;
 - (b) allowances;
 - (c) expenses.

Guidance

- 7
- The Chamber President of a chamber of the First-tier Tribunal or the Upper Tribunal is to make arrangements for the issuing of guidance on changes in the law and practice as they relate to the functions allocated to the chamber.

Oaths

- 8
- (1) Sub-paragraph (2) applies to a person (“the appointee”)—
 - (a) appointed under section 7(7) as a Chamber President,
 - (b) appointed under paragraph 5(1) as a Deputy Chamber President of a chamber, or
 - (c) appointed as an Acting Chamber President.
 - (2) The appointee must take the required oaths before—
 - (a) the Senior President of Tribunals, or
 - (b) an eligible person who is nominated by the Senior President of Tribunals for the purpose of taking the oaths from the appointee.
 - (3) A person is eligible for the purposes of sub-paragraph (2)(b) if any one or more of the following paragraphs applies to him—
 - (a) he holds high judicial office (as defined in section 60(2) of the Constitutional Reform Act 2005 (c. 4));
 - (b) he holds judicial office (as defined in section 109(4) of that Act);
 - (c) he holds (in Scotland) the office of sheriff.

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- (4) Sub-paragraph (2) does not apply to the appointee if he has previously taken the required oaths in compliance with a requirement imposed on him under paragraph 9 of Schedule 2 or paragraph 10 of Schedule 3.
- (5) In this paragraph “the required oaths” means (subject to sub-paragraph (6))—
- (a) the oath of allegiance, and
 - (b) the judicial oath,
- as set out in the Promissory Oaths Act 1868 (c. 72).
- (6) Where it appears to the Lord Chancellor that the appointee will carry out functions under his appointment wholly or mainly in Northern Ireland, the Lord Chancellor may direct that in relation to the appointee “the required oaths” means—
- (a) the oath as set out in section 19(2) of the Justice (Northern Ireland) Act 2002 (c. 26), or
 - (b) the affirmation and declaration as set out in section 19(3) of that Act.

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