

POLICY NOTE

THE JUDICIAL APPOINTMENTS BOARD FOR SCOTLAND (MEMBERSHIP) MODIFICATION ORDER 2022

SSI 2022/268

1. The above instrument is made in exercise of the powers conferred by paragraph 3(4) of schedule 1 of the Judiciary and Courts (Scotland) Act 2008 (“the 2008 Act”). The instrument is subject to negative resolution procedure.

The purpose of this instrument is to increase the Judicial Appointments Board for Scotland (“JABS”) by one additional legal member and one additional judicial member.

Policy Objectives

2. JABS must be made up of 12 members (4 judicial members appointed by the Lord President, with 2 legal members and 6 lay members appointed by Scottish Ministers), specified in schedule 1 of the 2008 Act.

3. Paragraphs 3(1) and 3(2) of schedule 1 of the 2008 Act make further provision as to the judicial membership category and the legal membership category. The Order increases by one the number of judicial members of JABS and by one the number of legal members of JABS.

4. Paragraph 4(1) of schedule 1 of the 2008 Act states that the number of lay members is to be equal to the total number of judicial and legal members. The Order therefore increases the number of lay members on JABS by two taking the total number of lay members to 8 and the total number of board members of JABS from 12 to 16.

5. Paragraph 3(4) of Schedule 1 of the 2008 Act enables Scottish Ministers to modify by order the number and kind of judicial members and legal members of JABS.

6. An increase in the number of members of JABS is required as JABS’ remit has expanded significantly since the 2008 Act was introduced. JABS’ remit now includes a wider range of judicial offices such as Summary Sheriffs, members of the Scottish Tribunals as well as Parole Board members.

7. This wider remit was not anticipated when the 2008 Act was introduced and the number of members of JABS has not been increased to reflect the expanded remit. The limited capacity of JABS has resulted in delays which has impacted the resourcing of courts and subsequently access to justice for users. Increasing the number of members on JABS will increase its capacity and resilience and assist JABS in meeting the required timescales for recruitment. It will also assist with the courts and tribunals’ recovery from Covid.

Consultation

8. No statutory consultation is required under the 2008 Act in respect of these increases to the membership of JABS. We have consulted informally with key stakeholders and the amendment is supported by JABS and the Lord President.

Equality Impact Assessment

9. There is no direct impact on the protected characteristics. The Lord President and Scottish Ministers are responsible for recommending individuals suitable for appointment to JABS. In carrying out their functions, the Lord President and Scottish Ministers have a statutory obligation to have regard to the need to encourage diversity in the range of individuals available for selection to be recommended for appointment to JABS.

Financial Effects

10. The increase to the number of members on JABS will cost £35,520, however, it will ensure recruitment timescales can be met, courts are resourced and users have access to justice. The additional cost for this is accounted for in the Scottish Budget for 2022/23.

11. The Cabinet Secretary for Justice and Veterans confirms that no Business and Regulatory Impact Assessment is necessary as the instrument has limited financial effects on the Scottish Government, and no financial effects on local government or on business.

Scottish Government
Civil Law and Legal System Division
Justice Directorate
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