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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision for the selection process applicable to the appointment of a variety of judicial office holders. Section 20 of, and Schedule 13 to, the Crime and Courts Act (c.22) made a number of amendments to Part 4 of, and Schedule 14 to, the Constitutional Reform Act 2005 (c.4). In particular, provisions relating to selection of a variety of judicial office holders are no longer wholly set out in the 2005 Act itself but also in regulations made under sections 94(1) and 94C(1) of the 2005 Act.

Part 1 of these Regulations contains a number of definitions applicable to these Regulations. It also disapplies section 16(2)(a) or (b) of the Constitutional Reform Act 2005 to the functions of the Lord Chief Justice under regulations 5 and 11. Section 16 contains provisions relating to where the Lord Chief Justice is incapacitated or the office is vacant and who may exercise functions of the Lord Chief Justice in such circumstances. Regulations 5 and 11 contain alternative provisions about who should exercise the functions of the Lord Chief Justice under those regulations where the office of the Lord Chief Justice is vacant or the Lord Chief Justice is incapacitated. Part 1 also defines “non-legally qualified” for the purposes of sections 70, 75B and 79 of the Constitutional Reform Act 2005.

Part 2 of these Regulations contains provisions about the selection process to be applied for the appointment of a person to the office of Lord Chief Justice. It makes provision for the composition of a selection panel, consultation by that panel, reporting of its selection to the Lord Chancellor and the Lord Chancellor’s options when deciding upon that selection.

Part 3 of these Regulations contains similar provisions about the selection process to be applied for the appointment of a person to the office of Head of Division, Part 4 relates to the selection process to be applied for the appointment of a persons to the office of Senior President of Tribunals and Part 5 relates to the selection process to be applied for the appointment of a person as a Lord Justice of Appeal.

Part 6 of these Regulations makes provision for the selection process to be applied for the appointment of persons to the office of puisne judge of the High Court or to a judicial office listed in Schedule 14 to the Constitutional Reform Act 2005. Under section 88 of the Constitutional Reform Act 2005 the Judicial Appointments Commission must determine the selection process to be applied. Part 6 contains provisions about who the Commission must or may consult and reporting its selection to the appropriate authority. Regulation 36 contains provisions about the Commission’s duty under section 94 of the Constitutional Reform Act 2005 to identify persons for future requests that the Lord Chancellor expects to make.

Part 7 of these Regulations contain provisions about the effect of the acceptance by the appropriate authority of a selection by a selection panel or the Judicial Appointments Commission. It includes the making of arrangements for health assessments if required and the circumstances in which an accepted selection may be disregarded.

Part 8 of these Regulations makes provision regarding the selection process to be applied for the selection of a person for membership of a pool for requests under section 9(1) of the Senior Courts Act 1981 (c.54). Section 9(1) enables the appropriate authority within that provision to request a specified judicial office holder to provide assistance in dealing with the business of the Senior Courts. Under section 88 of the Constitutional Reform Act 2005 the Judicial Appointments Commission must determine the selection process to be applied for membership of a pool for particular requests for assistance. Part 8 contains provisions about the Commission reporting its selection to the Lord

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Chief Justice, the Lord Chief Justice's power to reject or require the reconsideration of, initial or subsequent selections and the effect of an acceptance of a selection.

Part 9 of these Regulations contain provisions about which functions under these Regulations the Lord Chief Justice may delegate to a senior judge and which functions under these Regulations the Senior President of Tribunals can and cannot delegate.

Part 10 of these Regulations contain transitional provisions. These Regulations apply to all appointments where a request regarding selection is made on or after the commencement of these Regulations. A selection which is in train at that time is unaffected. Requests under section 9(1) of the Senior Courts Act to assist with the business of the Senior Courts that are made before the commencement of these Regulations is unaffected.