STATUTORY INSTRUMENTS

2017 No. 1282

JUDICIAL APPOINTMENTS AND DISCIPLINE

The Selection of the President of Welsh Tribunals Regulations 2017

Made - - - - 11th December 2017

Coming into force in accordance with regulation 1(1)

The Lord Chancellor makes these Regulations in exercise of the powers conferred by paragraph 7(1), (2) and (3)(a) of Schedule 5 to the Wales Act 2017(**1**).

In accordance with paragraph 7(4) of Schedule 5 to that Act a draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament.

In accordance with paragraph 7(1) of Schedule 5 to that Act, the Lord Chancellor makes these Regulations with the agreement of the Lord Chief Justice and the Welsh Ministers.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Selection of the President of Welsh Tribunals Regulations 2017 and come into force on the day after the day on which they are made.

(2) In these Regulations—

(a) a reference to "Schedule 5" is a reference to Schedule 5 to the Wales Act 2017 (President of Welsh Tribunals), and

(b) a person is the judicial lead of a Welsh Tribunal(**2**) if the person is appointed under a provision in the left hand column of the following table to a position listed against that provision in the right hand column—

Provision	*Position*
Paragraph 13(1) of Schedule 9 to the Agriculture Act 1947(**3**)	Chairman for the Agricultural Land Tribunal
Paragraph 3 of Schedule 10 to the Rent Act 1977(**4**)	President of the Panel

(**1**) 2017 c. 4.
(**2**) The term "Welsh Tribunal" is defined in section 59(1) of the Wales Act 2017.
(**3**) 1947 c. 48. Paragraph 13(1) was amended by paragraph 6 of Schedule 10 to the Courts and Legal Services Act 1990 (c. 41), paragraph 4 of Schedule 10 to the Tribunals, Courts and Enforcement Act 2007 (c. 15) and by S.I. 2013/1036.
(**4**) 1977 c. 42. Paragraph 3 was amended by S.I. 2013/1036.

Provision	*Position*
Paragraph 3 of Schedule 2 to the Mental Health Act 1983(**5**)	Chairman or President of the Mental Health Review Tribunal for Wales
Section 333(2)(a) of the Education Act 1996(**6**)	President of the Tribunal
Section 75(6) of the Local Government Act 2000(**7**)	President of the Panel
Section 120(2)(a) of the Welsh Language (Wales) Measure 2011(**8**)	President of the Welsh Language Tribunal.

Non-legally qualified person

2. For the purposes of paragraph 4(3) of Schedule 5 (composition of panel) a person is non-legally qualified if that person has never—

(a) held an office listed in Schedule 14 to the Constitutional Reform Act 2005(**9**);

(b) been a member of a panel appointed under regulation 8(1) and (2)(b) or (c) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013(**10**), or

(c) practised as, or been employed as, a lawyer.

Membership of selection panel

3.—(1) A selection panel appointed under paragraph 4(1) of Schedule 5 (appointment of panel) to select a person for appointment to the office of President of Welsh Tribunals must consist of five members.

(2) The first member, who is to be the chairperson of the panel, is a person designated by the Lord Chief Justice.

(3) A person designated under paragraph (2) must be a person who holds, or has held, office as a judge of the Supreme Court, a Lord Justice of Appeal or a puisne judge of the High Court.

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

(5) A person designated under paragraph (4) must be—

(a) a person who has held the office of President of Welsh 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, the judicial lead of a Welsh Tribunal, or

(d) a person who holds, or who has held, an office or other position that, in the opinion of the Lord Chief Justice, is such that a holder of it would acquire knowledge or experience broadly similar to that which would be acquired by a person who holds one of the offices referred to in sub-paragraphs (a) to (c).

(**5**) 1983 c. 20. Paragraph 3 was prospectively substituted by section 38(6) of the Mental Health Act 2007 (c. 12) and amended by S.I. 2008/2833. The amendment in that Act, which alters the name of the judicial lead for the Tribunal has not been brought into force.
(**6**) 1996 c. 56. Subsection (2) was amended by paragraph 31(3)(b) of Schedule 3 to the Children and Families Act 2014 (c. 6) and by S.I. 2008/2833.
(**7**) 2000 c. 22.
(**8**) 2011 nawm 1.
(**9**) 2005 c. 4. There are amendments to Schedule 14 but none are relevant.
(**10**) S.I. 2013/1237.

(6) Unless paragraph (10) applies the third member is the chairman of the Commission(**11**) or the chairman's nominee.

(7) Only a lay member of the Commission(**12**) may be a nominee under paragraph (6).

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

(9) The fifth member is a person designated by the Lord Chancellor with the agreement of Welsh Ministers.

(10) If—

(a) there is no chairman of the Commission;

(b) the chairman of the Commission is, in the opinion of the Lord Chief Justice, incapacitated, or

(c) the chairman of the Commission is unavailable and has not nominated a person under paragraph (6),

the third member of the panel is a lay member of the Commission selected by the lay members of the Commission other than the chairman of the Commission.

(11) A person may not, under this regulation—

(a) be a nominee, or a designated member, if that person is disqualified under paragraph (12);

(b) be appointed to the selection panel as the nominee of, or designated by, more than one person;

(c) be appointed to the selection panel as a nominee or a designated member if they have been appointed to the panel otherwise than as a nominee, or as a designated member.

(12) A person is disqualified for the purposes of this regulation if—

(a) the person is the holder of the office of President of Welsh Tribunals;

(b) the office of the President of Welsh 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 as President of Welsh Tribunals.

(13) Where a person chooses a person to be a member of a selection panel under this regulation 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;

(b) members drawn from a range of different racial groups (within the meaning of section 9(3) of the Equality Act 2010(**13**)), and

(c) members with an understanding of the administration of justice in Wales and Welsh devolution arrangements.

Consultation

4.—(1) If practicable, the selection panel must consult the current holder of the office of President of Welsh Tribunals about the exercise of its functions under paragraph 4(4) of Schedule 5 (selection process).

(**11**) The Judicial Appointments Commission (see paragraph 2(5) of Schedule 5 to the Wales Act 2017).

(**12**) A lay member of the commission is a person who is appointed to be a member of the commission and who meets the criteria set out in regulation 8 of the Judicial Appointment Commission Regulations 2013 (S.I. 2013/2191) – see paragraphs 3B(2)(c) and 3C of Schedule 12 to the Constitutional Reform Act 2005.

(**13**) 2010 c. 15.