

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Second Delegated Legislation Committee

DRAFT SELECTION OF THE PRESIDENT OF  
WELSH TRIBUNALS REGULATIONS 2017

*Tuesday 28 November 2017*

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**not later than**

**Saturday 2 December 2017**

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**The Committee consisted of the following Members:**

*Chair:* SIR HENRY BELLINGHAM

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|--|---|
| † Allan, Lucy ( <i>Telford</i> ) (Con)                                 | † Lake, Ben ( <i>Ceredigion</i> ) (PC)  |
| † Blackman, Bob ( <i>Harrow East</i> ) (Con)                           | Mahmood, Shabana ( <i>Birmingham, Ladywood</i> ) (Lab)                        |
| † Crabb, Stephen ( <i>Preseli Pembrokeshire</i> ) (Con)                | † Raab, Dominic ( <i>Minister of State, Ministry of Justice</i> )             |
| † Djanogly, Mr Jonathan ( <i>Huntingdon</i> ) (Con)                    | † Shuker, Mr Gavin ( <i>Luton South</i> ) (Lab/Co-op)                         |
| † Elliott, Julie ( <i>Sunderland Central</i> ) (Lab)                   | † Smith, Nick ( <i>Blaenau Gwent</i> ) (Lab)                                  |
| † Hart, Simon ( <i>Carmarthen West and South Pembrokeshire</i> ) (Con) | † Thomas-Symonds, Nick ( <i>Torfaen</i> ) (Lab)                               |
| † Henderson, Gordon ( <i>Sittingbourne and Sheppey</i> ) (Con)         | † Wheeler, Mrs Heather ( <i>Lord Commissioner of Her Majesty's Treasury</i> ) |
| † Hendrick, Mr Mark ( <i>Preston</i> ) (Lab/Co-op)                     | Adam Evans, <i>Committee Clerk</i>  |
| † Jenrick, Robert ( <i>Newark</i> ) (Con)                              |   |
| Johnson, Diana ( <i>Kingston upon Hull North</i> ) (Lab)               | † <b>attended the Committee</b>   |

## Second Delegated Legislation Committee

*Tuesday 28 November 2017*

[SIR HENRY BELLINGHAM *in the Chair*]

### Draft Selection of the President of Welsh Tribunals Regulations 2017

2.30 pm

**The Minister of State, Ministry of Justice (Dominic Raab):** I beg to move,

That the Committee has considered the draft Selection of the President of Welsh Tribunals Regulations 2017.

It is a pleasure to serve under your chairmanship, Sir Henry. Perhaps it will help the Committee if I set out the background to the draft regulations. There are currently seven devolved tribunals under the responsibility of the Welsh Government: the mental health review tribunal for Wales, the special educational needs tribunal for Wales, the agricultural land tribunal for Wales, the adjudication panel for Wales, the residential property tribunal for Wales, the Welsh language tribunal, and a tribunal covering the registered school inspectors appeals panels and the registered nursery education inspectors appeals panels. Forty-one judges are currently appointed to those tribunals, and each tribunal has its own judicial lead, but those judges have limited access to senior judicial leadership within Wales. That is not consistent with the system for other judicial office holders in England and Wales. Sir Wyn Williams, a retired High Court judge, has been undertaking a leadership role on an informal basis but does not have any statutory powers.

To address this inconsistency, part 3 of the Wales Act 2017 created the new post of President of Welsh Tribunals. The president has responsibility for making arrangements for the training, guidance and welfare of Welsh tribunal members and for representing their views to Welsh Ministers and other Members of the National Assembly for Wales. He or she will be able to give practice directions and will be responsible for deploying tribunal members between the Welsh tribunals and between the UK-wide and Welsh tribunals.

The president will also be responsible for establishing and communicating the judicial strategic direction of the Welsh tribunals. In that role, he or she will be able to provide leadership and build effective relationships with the judicial leads of the Welsh tribunals and the Welsh Government's tribunal unit, the Lord Chief Justice, the Judicial College and Ministers and officials of the Welsh Government on the whole range of policy issues that affect the Welsh tribunals.

Paragraph 2 of schedule 5 to the 2017 Act provides two routes to the appointment of the President of Welsh Tribunals. The first is by agreement between the Lord Chief Justice, the Lord Chancellor and the Welsh Ministers on the appointment of a person who is, or has been, a judge of the Court of Appeal or the High Court. The second route applies if such agreement cannot be reached. We do not foresee such a situation,

but in any event it is catered for by paragraph 2(5), which requires the Lord Chief Justice to make a request to the Judicial Appointments Commission for a person to be selected for appointment to the office of President of Welsh Tribunals.

The procedure for appointment by the Judicial Appointments Commission is set out in the 2017 Act and is similar to the existing arrangements for the appointment of other judicial office holders. It includes a provision that the commission must appoint a selection panel. The members of the panel must include at least two who are non-legally-qualified, at least two judicial members and at least two members of the commission. The Lord Chancellor is also required to make further provision about the process to be applied. The draft regulations make such provision. In particular, they specify that the selection panel should consist of five members, and they make further provision about appointment to it, including the requirement that the chairperson of the panel is a person designated by the Lord Chief Justice who holds, or has held, office as a judge of the Supreme Court, a Lord Justice of Appeal or a High Court judge.

The draft regulations contain detailed provisions about how the other panel members are to be appointed and the necessary qualifications. They also make provision about the consultation during the process, the reporting of the panel's selection to the Lord Chief Justice, and the Lord Chief Justice's options when deciding on the selection. For consistency with the relevant primary legislation and the nature of the new office, the appointment process closely reflects that which applies to the selection of the Senior President of Tribunals.

The 2017 Act established the need for the President of Welsh Tribunals and what was required to appoint a judicial office holder. The regulations allow that appointment to be made, and I commend them to the Committee.

2.35 pm

**Nick Thomas-Symonds (Torfaen) (Lab):** It is a pleasure to serve under your chairmanship, Sir Henry. I draw the Committee's attention to my relevant entry in the Register of Members' Financial Interests—stating that I am a door tenant at Civitas Law in Cardiff—and indicate that I practised law from chambers based in Cardiff as a barrister prior to my election to Parliament.

As the Minister set out, the regulations provide for the process of appointing the President of Welsh Tribunals. In the first instance, there is the procedure by which the Lord Chief Justice, the Lord Chancellor and Welsh Ministers agree on a candidate, and although one would ordinarily expect that to be the case, the regulations provide for the appointment of the president when agreement is not reached in those circumstances. The post is created by section 60 of the 2017 Act, part 3 of which sets out the duties that the post holder will have to carry out. Appropriate arrangements are to be made for the training, guidance and welfare of members of tribunals and, importantly, for reporting their views to Welsh Ministers and other Assembly Members.

The Opposition will not oppose the regulations, but we will be holding this Government and Governments across the UK to account on openness and transparency. The appointment of the post holder will further the

goal, which I am sure is shared across the House, of creating a more diverse judiciary based on merit in appointment.

The Minister set out the various tribunals that exist in Wales—the Welsh Government inherited some of them in 1999; responsibility for some has since been acquired; and some of them have been newly established. Although there is a growing body of tribunals and members who sit on tribunals in Wales, it is important

that the post holder not only enhances judicial independence in Wales, but provides strong judicial leadership for the sector and ensures that its views are heard, all of which should enhance the dispensation of justice for the people of Wales. We will not oppose the regulations.

*Question put and agreed to.*

2.37 pm

*Committee rose.*

