

# **TERMS AND CONDITIONS OF SERVICE AND TERMS OF APPOINTMENT**

## **LAY MEMBER OF THE AGRICULTURAL LAND TRIBUNALS**

### **INTRODUCTION**

1. Schedule 9 to the Agriculture Act 1947 [as amended] provides for the establishment and composition of the Agricultural Land Tribunals. There shall be drawn up for each Agricultural Land Tribunal panels of persons “appearing to represent the interests of farmers and owners of agricultural land”. Section 31 of the Land Drainage Act 1991 provides that, for the purpose of determining applications under sections 28 and 30, each Agricultural Land Tribunal shall have drawn up a panel of persons “experienced in matters relating to the drainage of land”. The legislation provides for the appointment of Tribunal members by the Lord Chancellor. A member of the Agricultural Land Tribunal is to hold and vacate his/her office in accordance with the terms of his/her appointment.
2. This document contains information about the terms and conditions of appointment, which should be understood and agreed by all those accepting appointment. The terms and conditions are correct as at the date given at the end of this document but may, in some circumstances, be subject to change.

### **LOCATION**

3. The Tribunal sits in 7 Areas in England and there is a separate Area for Wales. Members are appointed to a specific area(s) but occasionally may be asked to sit in other areas.

### **FREEMASONRY**

4. Following the Government's response to the Report of the House of Commons Select Committee on Freemasonry in the Police and the Judiciary, anyone being appointed for the first time to a judicial office is asked as a condition of appointment whether they belong to the Freemasons and, if not, that they notify the Lord Chancellor in the event that they subsequently join them. Judicial post holders must expect that this information may be included in a public register.

### **DURATION OF APPOINTMENT**

5. An appointment as a lay member is for a (renewable) period of five years, subject to the upper age limit.

### **RENEWAL OF APPOINTMENT**

6. At the end of the initial five-year appointment, renewal for further successive periods of five years is automatic subject to the individual's agreement and the upper age limit unless a question of cause for non-renewal is raised, or the individual no longer satisfies the conditions or qualifications for appointment.
7. There are eight grounds for non-renewal:
  - a. incapacity;
  - b. misbehaviour; including

- c. persistent failure to comply with sitting requirements (without good reason);
  - d. failure to comply with training requirements; and
  - e. sustained failure to observe the standards reasonably expected from a holder of such office;
  - f. bankruptcy;
  - g. part of a reduction in numbers because of changes in operational requirements; and
  - h. part of a structural change to enable recruitment of new tribunal office holders.
8. All decisions not to renew on grounds (a) - (f) are taken by the Lord Chancellor with the concurrence of the Lord Chief Justice. Such decisions are taken following an investigation conducted by a judge, who will report to the Lord Chancellor and the Lord Chief Justice.
9. All decisions not to renew on grounds (g) or (h) will be on a "first in, first out" principle, and the decision to use such grounds and the extent to which they will be used will be taken by the Lord Chancellor, after consultation with the Secretary of State or the Welsh Assembly Government as sponsoring Departments with policy responsibility for the jurisdiction, and with the concurrence of the Lord Chief Justice.
10. Lay members may choose to end their appointment by resignation or by declining to accept renewal on completion of a term.

#### **UPPER AGE LIMIT**

11. The appointment of a lay member will not normally be extended beyond the age of 70.

#### **ARRANGEMENTS FOR TRAINING & SITTINGS**

12. Newly appointed members will not normally sit until they have attended an induction process. During the course of their appointment lay members are required to undertake such further ongoing training as may be arranged and required.
13. A lay member is called upon to sit and to undertake other prescribed duties as the need arises. The frequency of sittings depends upon the workload of the Tribunal and on the commitments of the office holder. Due to the nature of the workload of this Tribunal no guarantee will be given on the number of sitting days that will be offered to post holders. However, the allocation of work is a judicial function and, subject to overriding operational requirements, all post holders will be offered work on the same basis.
14. An office holder's work is arranged, in consultation with him as appropriate, by the appropriate Secretary to the Agricultural Land Tribunal. Lay Members should observe the sitting and other requirements of any hearing centres at which they sit.

## CONFLICTS OF INTEREST

15. The governing principle is that no person should sit in a judicial capacity in any circumstances, which would lead an objective onlooker with knowledge of all the material facts reasonably to suspect that the person might be biased. As a general principle therefore, a lay member ought not to sit as a judicial office holder if he or she is liable to be embarrassed by doing so.

Judicial office holders:

- a. should not sit in a case involving their own firm or client, or otherwise where to do so could give rise to the perception of prejudice in the administration of justice;
- b. should comply with the existing case law governing pecuniary or other interests in deciding whether to declare an interest in, or to stand down from, a particular case e.g. *Locabail (UK) Ltd v Bayfield Properties Ltd and Another* (2000) Q.B. 451; *In re Medicaments and Related Classes of Goods (No 2)* [2001] 1 W.L.R. 700; and *Lawal v Northern Spirit Limited* [2003] UKHL 35;
- c. should not sit on a case if they have a personal, professional or pecuniary interest in that case; or if any business or practice of which they are members in any capacity have such an interest.
- d. are expected to refrain from any activity, political or otherwise, which would conflict with their judicial office or be seen to compromise their impartiality, having regard for example to the comments of the Court of Appeal in the case of *Locabail*;
- e. should be aware of the risk of a perceived lack of impartiality arising from published articles or public pronouncements, etc. (*Timmins v Gormley* [(2000) 2 WLR 870]); and
- f. should exercise caution in any reference to their appointment on, for example, letterheads or advertising literature. They hold office only when exercising the functions of the office and should not use their office as a means of pursuing personal, professional or commercial advantage.

## JUDICIAL CONDUCT

16. The public both deserves and expects the highest standards of conduct from those who hold judicial office. Without prejudice to the paragraphs below, an office holder should notify the Lead Chairman of the ALT and the Lord Chief Justice at the earliest opportunity if they are aware of any matters relating to conduct which may affect their position or may reflect on the standing and reputation of the judiciary at large.
17. An office holder should also notify the Lead Chairman and the Lord Chief Justice if they get into serious financial difficulties, particularly if legal proceedings appear to be likely to be, or have actually been, initiated. They should also inform the Lead Chairman and the Lord Chief Justice of any complaint made against them by their professional body, whether it relates to their professional or judicial capacity. Office holders must notify the Lead Chairman and the Lord Chief Justice if they are involved, or likely to get involved, in any court proceedings.
18. Where, either before or after he/she has commenced service, an office holder is cautioned for, or charged with, any criminal offence, other than a parking or speeding offence without aggravating circumstances, i.e. an offence for which a

period of disqualification, or at least 6 penalty points, are imposed, or which results in a total of more than 6 currently accumulated penalty points, he/she should report the matter at once to the Lead Chairman and the Lord Chief Justice and should keep them informed of the progress and outcome of the case. Failure to do so could in some cases amount prima facie to misbehaviour. Convictions for some offences, including some motoring matters, need not necessarily be regarded as being incompatible with continuing to serve. However, if a judicial office holder were convicted of a grave offence, for instance one involving violence to persons, dishonesty or moral turpitude, the Lord Chancellor and the Lord Chief Justice would regard themselves as having cause to consider the exercise of their powers to remove the individual from office on the grounds of misbehaviour; and the Lord Chancellor and the Lord Chief Justice regard a conviction for an offence of driving while under the influence of alcohol or drugs as so grave as to amount prima facie to misbehaviour.

19. The Lord Chancellor and the Lord Chief Justice believe that the public must be entitled to expect all judicial office holders to maintain at all times proper standards of courtesy and consideration. They do not regard behaviour which could cause offence, particularly on racial or religious grounds, or amounting to sexual harassment, as consistent with the standards expected of those who hold judicial office. A substantiated complaint of conduct of this kind, whether or not previous complaints have also been made, is in their view capable of being regarded as misbehaviour.
21. The exercise of the Lord Chancellor's and the Lord Chief Justice's disciplinary powers are governed by regulations made by the Lord Chief Justice under sections 115 and 117 of the Constitutional Reform Act 2005. They enable any observations which the office holder may wish to make on the matter to be taken fully into account. The Lord Chancellor and the Lord Chief Justice will not consider the exercise of the powers vested in them in respect of judicial conduct without serious cause and the most careful deliberation.

## **REMOVAL FROM OFFICE**

22. The Lord Chancellor may if he thinks fit terminate the appointment of a lay member on specified grounds. There are six grounds for removal from appointment:
  - a. incapacity;
  - b. misbehaviour, including:
  - c. failure to comply with training requirements;
  - d. persistent failure to comply with sitting requirements (without good reason); and
  - e. sustained failure to observe the standards reasonably expected from a holder of such office;
  - f. bankruptcy.

All decisions to remove are taken by the Lord Chancellor with the concurrence of the Lord Chief Justice. Such decisions are taken in accordance with the procedures contained in the Regulations referred to at paragraph 21 above.

## **DISQUALIFICATION**

23. A lay member is expected to submit his or her resignation to the Lord Chancellor in the event of nomination or selection as a prospective candidate for election to Parliament, the Scottish Parliament, the Welsh Assembly, the Northern Ireland Assembly, or to the European Parliament. The Lord Chancellor should be consulted if doubts arise about any particular circumstances.

## **TRAVELLING AND RELATED EXPENSES**

24. The appointment is non fee-paid and non-pensionable. Allowances are determined by the sponsoring Departments: the Department for Environment, Food and Rural Affairs (Defra) or, in the case of the ALT (Wales), the Welsh Assembly Government. Lay members may claim a small flat rate financial loss allowance for sitting days, travel time and training days. Lay members may also claim the reasonable actual costs of travel and related expenses or flat rate allowance, as appropriate, in connection with sittings, attendance at training courses and other Tribunal business.
25. All costs are met from public funds and therefore appointees are encouraged to use the most cost effective options taking all relevant costs into account, to meet the business needs involved. Details of any flat rate and other allowances and the basis on which lay members may claim travelling and related expenses will be supplied by the Tribunal staff. The rules governing, and rates of these allowances may change from time to time, and any such changes will be notified. Appointments made on a non fee-paid basis will not normally result in a tax or NI liability. However, if any lay member is in any doubt he or she should contact their Tax Office.

## **MEDIA GUIDANCE**

27. Guidance on relations with the media will be provided by the Judicial Communications Office (JCO). The JCO provides communications support to judicial office holders in England & Wales (including salaried and fee paid judges, tribunal members and magistrates). This includes advice on media issues such as mis-reporting and requests for interviews; as well as an external judicial website, an intranet and a newsletter for the judiciary. The JCO is based in the Royal Courts of Justice, is accountable to the Lord Chief Justice and is independent of any Government press office. The JCO's media team is available on 020 7073 4852, fax 020 7947 6544 or e-mail *press.enquiries@judiciary.gsi.gov.uk*. The out of hours pager number is 07659 550652.

## **ADVICE**

28. Judicial office holders are welcome to consult the Judicial Office for England & Wales 020 7073 4859 on any matters relating to judicial office. Judicial media enquiries should be directed to the Lord Chief Justice's Judicial Communications Office on 020 7947 6438. Enquiries relating to the operation of the Tribunal should be directed to the staff of the Tribunals whose contact details can be found on the following website:  
[www.defra.gov.uk/farm/working/alt/default.htm](http://www.defra.gov.uk/farm/working/alt/default.htm)

Ministry of Justice

June 2009