

EAST AYRSHIRE COUNCIL

STATUTORY MEETING 8TH MAY 2003

APPOINTMENT OF EX-OFFICIO JUSTICES OF THE PEACE

Report by Solicitor to the Council

1. PURPOSE OF REPORT

- 1.1 To advise the Council of the right to appoint Elected Members as Ex-Officio Justices of the Peace, the criteria applied in respect of such appointment, and some of the duties involved.

2. BACKGROUND

- 2.1 A local authority is entitled to nominate up to one quarter of its Members for appointment as Ex-Officio Justices of the Peace (i.e. no more than eight for East Ayrshire). These nominations can be made by East Ayrshire Council anytime after the local government elections. The appointments are not effective until the nominations or "Commissions" as they are called, are notified to and duly acknowledged by the Secretary of Commissions.
- 2.2 The Commissions of Ex-Officio Justices of the Peace of the outgoing Council terminate on 1 st May 2003.

3. CRITERIA FOR APPOINTMENT

- 3.1 Ex-Officio Justices are subject to the same terms of appointment as those appointed by the Scottish Ministers and the same general criteria are therefore relevant when making nominations of Ex-Officios.
- 3.2 The main consideration is that a candidate should be personally suitable as respects character, integrity and understanding and should be generally recognised as such by those among whom he or she lives and works. There are various matters which have been considered as an impediment to appointment, e.g. certain types of employment such as Police service render a candidate unsuitable.
- 3.3 In terms of the Bail, Judicial Appointments Etc. (Scotland) Act 2000 all Ex-Officio Justices require to be placed on the Supplemental List of Justices which means in practice that Ex-Officio Justices can only perform signing duties. Therefore Ex-Officio Justices cannot serve on the bench in the District Court. In addition, signing duties do not include the signing of warrants.
- 3.4 There is nothing to prevent the Council from nominating Members who have previously held Ex-Officio JP appointments. However, as indicated in Paragraph 2.2 above the Commissions of Ex-Officio Justices of the outgoing

Council shall terminate on 1 st May 2003. Therefore all nominations for appointment, including re-appointments require to be formally intimated to and acknowledged by the Secretary of Commissions.

4. RECOMMENDATIONS

- 4.1** The Council should decide whether it will nominate Ex-Officio Justices of the Peace and advise the Clerk of the Peace of the names (no more than eight including re-nominations) to be submitted to the office of the Secretary of Commissions.

Solicitor to the Council

25th April 2003

LIST OF BACKGROUND PAPERS

NIL

Anyone wishing further information should contact Stuart McCall (Tel: 01563 576085).