

**EXPLANATORY MEMORANDUM TO  
THE LORD CHANCELLOR (CONSEQUENTIAL PROVISIONS) ORDER  
(NORTHERN IRELAND) 2006**

**2006 No. 115**

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs (Northern Ireland Court Service) and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 This Order makes amendments to secondary legislation that are consequential to changes made to some of the Lord Chancellor's functions under the 2005 Act.

**3. Matters of special interest to the Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments.**

3.1 None

**4. Legislative Background**

4.1 This Order is made under section 143 of the 2005 Act. The Order is subject to the negative resolution procedure by virtue of section 144(7) of that Act. Similar instruments, which are being brought forward by the Department of Constitutional Affairs, provide for the transfer and modification of certain functions which the Lord Chancellor exercises in England and Wales and across the United Kingdom. These are the Lord Chancellor (Transfer of Functions and Supplementary Provisions) Order 2006 and the Lord Chancellor (Transfer of Functions) (No.2) Order 2006.

**5. Extent**

5.1 This instrument applies to Northern Ireland only

**6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

**7. Policy background**

*The 2005 Act*

7.1 Part 2 of the 2005 Act modifies the office of the Lord Chancellor so that the office holder is no longer a judge nor exercises any judicial functions. It deals with functions relating to the judiciary and the courts in Northern Ireland so that they are appropriately shared between the reformed ministerial office of Lord Chancellor and the Lord Chief Justice of Northern Ireland who becomes Head of the Judiciary in Northern Ireland (his functions as such can be delegated to certain other members of

the judiciary as appropriate). Schedule 5 to the 2005 Act accordingly amends some functions contained in Northern Ireland primary legislation (e.g. Orders in Council and Acts of the Northern Ireland Parliament) and Acts of the UK Parliament which apply to Northern Ireland only. Generally, it does not, however, amend provisions in Northern Ireland secondary legislation.

### *The Order*

7.2 The Order contains one Schedule which makes amendments to certain functions of the Lord Chancellor which are contained in secondary legislation. These amendments are consequential to amendments that are effected by Schedule 5 to the 2005 Act which transfers certain of the Lord Chancellor's functions to the Lord Chief Justice, and requires certain functions to be exercised by the Lord Chancellor only after consulting, or obtaining the concurrence of the Lord Chief Justice.

7.3 The Lord Chief Justice of Northern Ireland is content with the amendments made by the Order.

## **8. Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 This instrument has no impact on the public sector.

## **9. Contact**

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