



# Human Rights Act 1998

## 1998 CHAPTER 42

### *Legislation*

#### **5 Right of Crown to intervene. U.K.**

- (1) Where a court is considering whether to make a declaration of incompatibility, the Crown is entitled to notice in accordance with rules of court.
- (2) In any case to which subsection (1) applies—
  - (a) a Minister of the Crown (or a person nominated by him),
  - (b) a member of the Scottish Executive,
  - (c) a Northern Ireland Minister,
  - (d) a Northern Ireland department,is entitled, on giving notice in accordance with rules of court, to be joined as a party to the proceedings.
- (3) Notice under subsection (2) may be given at any time during the proceedings.
- (4) A person who has been made a party to criminal proceedings (other than in Scotland) as the result of a notice under subsection (2) may, with leave, appeal to the [<sup>F1</sup>Supreme Court] against any declaration of incompatibility made in the proceedings.
- (5) In subsection (4)—

“criminal proceedings” includes all proceedings before the [<sup>F2</sup>Court Martial Appeal Court]; and

“leave” means leave granted by the court making the declaration of incompatibility or by the [<sup>F3</sup>Supreme Court]

#### **Textual Amendments**

- F1** Words in s. 5(4) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 66\(3\)](#); S.I. 2009/1604, [art. 2\(d\)](#)

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*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998, Section 5. (See end of Document for details)*

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- F2** Words in s. 5(5) substituted (28.3.2009 for certain purposes and 31.10.2009 otherwise) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, **Sch. 16 para. 157**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F3** Words in s. 5(5) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, **Sch. 9 para. 66(3)**; S.I. 2009/1604, **art. 2(d)**

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**Modifications etc. (not altering text)**

- C1** [S. 5\(2\)](#) functions made exercisable concurrently or jointly with the Welsh Ministers by [2006 c. 32, Sch. 3A para. 1](#) (as inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), **Sch. 4 para. 1** (with [Sch. 7 paras. 1, 6](#)); S.I. 2017/1179, **reg. 3(p)**)

**Changes to legislation:**

There are currently no known outstanding effects for the Human Rights Act 1998, Section 5.