

CONSTITUTIONAL REFORM ACT 2005

EXPLANATORY NOTES

OVERVIEW

Part 2: Arrangements to Modify the Office of Lord Chancellor

Summary

9. **Part 2** modifies the office of Lord Chancellor and provides for the future exercise of certain functions of that office and for continued judicial independence. It provides:
- (a) that in appointing a person to be Lord Chancellor the Prime Minister must be satisfied that the person is qualified for the post by relevant experience;
 - (b) that the Lord Chancellor must take a specified oath, in addition to the other oaths required of Ministers;
 - (c) a guarantee of continued judicial independence in England and Wales, and (separately) in Northern Ireland;
 - (d) for general statutory responsibilities of the Lord Chief Justice, who will assume the new additional titles of President of the Courts of England and Wales and Head of the Judiciary of England and Wales;
 - (e) that the most senior Judge within the three legal jurisdictions of the UK (England & Wales, Scotland and Northern Ireland) may make written representations to Parliament on justice-related matters;
 - (f) for new offices of the Head and Deputy Head of Criminal Justice and Head and Deputy Head of Family Justice;
 - (g) for the transfer of certain of the Lord Chancellor's statutory functions relating to the judiciary to the Lord Chief Justice (and/or other senior members of the judiciary as appropriate), and for consultation or concurrence between them in the exercise of such functions to reflect the agreement set out in the 'Concordat';
 - (h) for the amendment of certain statutory provisions that refer to the Lord Chancellor in his capacity as Speaker of the House of Lords, so that they will in future refer to the Speaker of the House of Lords in general terms;
 - (i) for the modification, transfer and abolition of existing functions of the Lord Chancellor created or modified in primary legislation since the introduction of the Act, and in secondary legislation, local or private acts, charters and other prerogative instruments; and
 - (j) for the amendment of the Ministers of the Crown Act 1975 to disapply section 1 of that Act to specified functions of the Lord Chancellor, so that they cannot be transferred to another Minister of the Crown by an order under that Act.