

*These notes refer to the Constitutional Reform Act 2005  
(c.4) which received Royal Assent on 24 March 2005*

# CONSTITUTIONAL REFORM ACT 2005

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Continued judicial independence*

#### *Section 3: Guarantee of continued judicial independence*

15. **Section 3** places a duty on Ministers of the Crown (including the Lord Chancellor), and all others with responsibility for matters relating to the judiciary or otherwise to the administration of justice to uphold the continued independence of the judiciary. It also sets out two particular duties that are to be exercised for the purpose of upholding that independence.
16. The first is a duty on Ministers of the Crown not to seek to influence particular judicial decisions through any special access to the judiciary. “Special access” is intended to refer to any access over and above that which might be exercised by a member of the general public. So the duty does not, for example, limit what may be said on a Minister’s behalf in court in the course of presenting a case to the court in the usual way.
17. The second duty requires the Lord Chancellor to have regard to the need to defend the continued independence of the judiciary, the need for the judiciary to have proper support necessary to enable them to exercise their functions, and the need for the public interest in matters relating to the judiciary or otherwise to the administration of justice to be properly represented in decisions affecting those matters. This section should be read in conjunction with Part 1 of the Courts Act 2003, which sets out the duty of the Lord Chancellor to ensure that there is an efficient and effective system to support the carrying on of the business of the courts of England and Wales.