

CONSTITUTIONAL REFORM ACT 2005

EXPLANATORY NOTES

BACKGROUND

59. At present the exercise of the highest level of jurisdiction in the United Kingdom is shared between the Appellate Committee of the House of Lords and the Judicial Committee of the Privy Council. The Appellate Committee of the House of Lords receives appeals from the courts in England and Wales and Northern Ireland, and in civil cases from Scotland. The Judicial Committee of the Privy Council, in addition to its overseas and ecclesiastical jurisdiction, considers questions as to whether the devolved administrations, the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly are acting within their legal powers. Support to the Appellate Committee is provided by the House's administration under the Clerk of the Parliaments. Support for the Judicial Committee is provided by staff supporting the Privy Council.
60. In addition to the Lords of Appeal in Ordinary certain other holders of high judicial office are also members of the House of Lords. A number of other members of the House of Lords hold other full-time or part-time judicial office and a number of members of the House of Commons hold part-time judicial-office.
61. The Act seeks to make a distinct constitutional separation between the legislature and the judiciary. It creates a Supreme Court of the United Kingdom giving it the appellate jurisdiction of the House of Lords and the devolution jurisdiction of the Judicial Committee of the Privy Council. It makes provision to allow for the appointment of members of the Court in a way that requires the participation of the judiciary and the devolved administrations throughout the United Kingdom. It makes provision to determine the practices and procedures of the court, to allow the Lord Chancellor to provide staff, equipment, security arrangements and accommodation for the Court. It also makes general provision for the proceedings of the Court to be broadcast in certain circumstances.
62. As a counterpart to the creation of the Supreme Court the Act restricts the right of members of the House of Lords to sit and vote for so long as they hold full time judicial office. Finally the Act makes consequential and transitional provisions to allow the transfer of functions to the Court.