

*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

#### **Part 3 Duty to Convene Commission: Special Rules**

#### **Jurisdiction, relation to other courts etc**

#### *Section 40: Jurisdiction*

157. This section makes provision for the jurisdiction of the Supreme Court, which is in essence that of the House of Lords in appellate matters together with the jurisdiction of the Judicial Committee of the Privy Council in relation to devolution issues under the Scotland Act 1998, Government of Wales Act 1998 and Northern Ireland Act 1998.
158. Subsection (1) provides that the Supreme Court is to be, as is the House of Lords, a superior court of record, and accordingly has the inherent powers of such a court.
159. Subsections (2) and (3) reproduce the effect of section 3 of the Appellate Jurisdiction Act 1876, conferring on the Supreme Court the appellate jurisdiction exercised by virtue of that section by the House of Lords. The other appellate jurisdiction of the House of Lords, and the jurisdiction of the Judicial Committee of the Privy Council in relation to devolution issues, are transferred to the Supreme Court by virtue of subsection (4) and Schedule 9 (which is introduced by that subsection).
160. Since the provisions work by transferring the existing jurisdiction, the appeal process (except to the extent that it would be covered by Supreme Court Rules made under section 45) and the types of appeal from each jurisdiction, including leave requirements, and the routes of recourse otherwise, will remain the same as is currently the case for the House of Lords and Judicial Committee of the Privy Council.
161. Subsection (5) makes provision for the Supreme Court to have the power, as does the House of Lords, to determine any questions it deems necessary to determine, for the purposes of doing justice in an appeal to it, under this Act or any other Act.