

CONSTITUTIONAL REFORM ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Chapter 3: Discipline

Procedures

Section 110: Applications to the Ombudsman

320. **Section 110** gives the Judicial Appointments and Conduct Ombudsman the powers to carry out a review of how a disciplinary case about a judge has been handled, at the application of an interested party, and sets out the conditions for a review. An interested party is either the judge concerned or the person, if any, who complained about his conduct. Applications for a review must be based on the grounds that those who have investigated the complaint have failed to comply with the prescribed procedures, contained in regulations made by the Lord Chief Justice under section 115 and rules made by him under section 117, or that there has been some other maladministration. The Ombudsman is not involved in reviewing the judge's conduct itself, and cannot make determinations about the merits of the decision made in a disciplinary case. For the Ombudsman to review a case, he must be satisfied that the issue is of sufficient substance for a review to be necessary. The application must have been made within the 28 days which the section prescribes, or within a time the Ombudsman considers reasonable in the circumstances, both generally and when a review is sought on the grounds that a case has taken too long to reach a conclusion. The application must be made in a form approved by the Ombudsman.
321. The section then lists the scope of the disciplinary functions which the Ombudsman will be able to investigate, which are: the exercise of the Lord Chancellor's power to remove judicial office holders as dealt with in section 108(1) of the Act; the Lord Chief Justice's new disciplinary powers dealt with in section 108(3)-(7); and any exercise of the disciplinary regulations and rules to be made by the Lord Chief Justice under section 115 and section 117.