



# Constitutional Reform Act 2005

## 2005 CHAPTER 4

### PART 7

#### GENERAL

VALID FROM 03/04/2006

#### 139 Confidentiality

- (1) A person who obtains confidential information, or to whom confidential information is provided, under or for the purposes of a relevant provision must not disclose it except with lawful authority.
- (2) These are the relevant provisions—
  - (a) sections 26 to 31;
  - (b) Part 4;
  - (c) regulations and rules under Part 4.
- (3) Information is confidential if it relates to an identified or identifiable individual (a “subject”).
- (4) Confidential information is disclosed with lawful authority only if and to the extent that any of the following applies—
  - (a) the disclosure is with the consent of each person who is a subject of the information (but this is subject to subsection (5));
  - (b) the disclosure is for (and is necessary for) the exercise by any person of functions under a relevant provision;
  - (c) the disclosure is for (and is necessary for) the exercise of functions under section 11(3A) of the Supreme Court Act 1981 (c. 54) or a decision whether to exercise them;
  - (d) the disclosure is for (and is necessary for) the exercise of powers to which section 108 applies, or a decision whether to exercise them;

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- (e) the disclosure is required, under rules of court or a court order, for the purposes of legal proceedings of any description.
- (5) An opinion or other information given by one identified or identifiable individual (A) about another (B)—
  - (a) is information that relates to both;
  - (b) must not be disclosed to B without A's consent.
- (6) This section does not prevent the disclosure with the agreement of the Lord Chancellor and the Lord Chief Justice of information as to disciplinary action taken in accordance with a relevant provision.
- (7) This section does not prevent the disclosure of information which is already, or has previously been, available to the public from other sources.
- (8) A contravention of this section in respect of any information is actionable, subject to the defences and other incidents applying to actions for breach of statutory duty.
- (9) But it is actionable only at the suit of a person who is a subject of the information.

#### **140 “Enactment”**

- (1) In this Act “enactment” includes—
  - (a) an enactment contained in this Act;
  - (b) an enactment contained in a local, personal or private Act;
  - (c) except in sections 19 and 143, an enactment contained in subordinate legislation;
 and any reference to an enactment includes a reference to an enactment whenever passed or made.
- (2) In section 22 “enactment” also includes an enactment contained in, or in an instrument made under, Northern Ireland legislation.
- (3) In Part 3 “enactment” also includes—
  - (a) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;
  - (b) an enactment contained in, or in an instrument made under, Northern Ireland legislation.
- (4) In sections 19, 21 and 143 and in paragraph 3 of Schedule 7 “enactment” also includes—
  - (a) an enactment contained in Northern Ireland legislation;
  - (b) an enactment contained in a Measure of the Church Assembly or of the General Synod of the Church of England.

#### **141 “Subordinate legislation”**

- (1) In this Act “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).
- (2) In sections 19 and 143 “subordinate legislation” also includes an enactment contained in an instrument made under Northern Ireland legislation.

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## 142 General interpretation

In this Act—

- “functions” includes powers and duties;
- “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c. 26).

## 143 Supplementary provision etc

- (1) The Lord Chancellor may by order make—
  - (a) any supplementary, incidental or consequential provision, and
  - (b) any transitory, transitional or saving provision,which he considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision of this Act.
- (2) An order under this section may in particular—
  - (a) provide for any provision of this Act which comes into force before another such provision has come into force to have effect, until that other provision has come into force, with such modifications as are specified in the order;
  - (b) amend or repeal any of the following—
    - (i) an enactment other than one contained in an Act passed, or Northern Ireland legislation passed or made, after the Session in which this Act is passed;
    - (ii) subordinate legislation other than subordinate legislation made under an Act passed, or Northern Ireland legislation passed or made, after the Session in which this Act is passed;
    - (iii) any other instrument or document, including a prerogative instrument;
  - (c) amend or repeal an enactment or subordinate legislation, whenever passed or made, in consequence of section 59.
- (3) The amendments that may be made by virtue of subsection (2)(b) are in addition to those made by or under any other provision of this Act.
- (4) In this section “prerogative instrument” means an Order in Council, warrant, charter or other instrument made under the prerogative.

## 144 Orders and regulations

- (1) Any power of a Minister of the Crown to make an order or regulations under this Act is exercisable by statutory instrument, except where subsection (2) applies.
- (2) Any power of the Lord Chancellor to make an order under section 19(1) or 143 amending an enactment contained in, or in an instrument made under, Northern Ireland legislation is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (3) Regulations under section 115, 120(5) or 121(5) are to be made in the form of a statutory instrument to which the Statutory Instruments Act 1946 (c. 36) applies as if the regulations were made by a Minister of the Crown.

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- (4) A statutory instrument to which this subsection applies may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (5) Subsection (4) applies to a statutory instrument which contains any of the following—
- (a) an order under section 85(3)(a) or (b) which amends Part 1 of Schedule 14;
  - (b) an order under section 19(1) which amends a public general Act, except where the only such amendment is the inclusion in Schedule 7 of a function of the Lord Chancellor;
  - (c) an order under section 19(1) which amends subordinate legislation of which a draft was required to be laid before and approved by a resolution of each House of Parliament, except where the only such amendment consists of provision that falls within subsection (2)(b) of section 19;
  - (d) an order under section 143 which amends a public general Act;
  - (e) an order under paragraph 5 of Schedule 12.
- (6) In any other case a statutory instrument containing an order or regulations under this Act, unless it contains only an order under section 66(5) or 148, is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) A statutory rule made under a power to which subsection (2) applies is subject to annulment in pursuance of a resolution of either House of Parliament.

VALID FROM 03/04/2006

#### 145 Minor and consequential amendments

Schedule 17 (minor and consequential amendments) has effect.

##### Commencement Information

- II** S. 145 partly in force; s. 145 not in force at Royal Assent see s. 148; s. 145 in force for certain purposes at 3.4.2006 by S.I. 2006/1014, art. 2(a), Sch. 1 para. 27; 1.10.2009 by S.I. 2009/1604, art. 2

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#### 146 Repeals and revocations

The provisions listed in Schedule 18 are repealed or revoked to the extent specified.

##### Commencement Information

- I2** S. 146 partly in force; s. 146 not in force at Royal Assent see s. 148; s. 146 in force for certain purposes at 3.4.2006 by S.I. 2006/1014, art. 2(a), Sch. 1 para. 29; 1.10.2009 by S.I. 2009/1604, art. 2

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## 147 Extent

- (1) Sections 7, 8 and 9 extend to England and Wales only.
- (2) Section 6 and Part 5 extend to Northern Ireland only.
- (3) Any amendment, repeal or revocation made by this Act has the same extent as the provision to which it relates.
- (4) Subject to subsections (1) to (3), this Act extends to Northern Ireland.

## 148 Commencement

- (1) This Act, except the following provisions, comes into force in accordance with provision to be made by the Lord Chancellor by order.
- (2) The provisions excepted from subsection (1) are—
  - (a) section 4;
  - (b) sections 18 to 22;
  - (c) sections 140 to 144;
  - (d) section 147;
  - (e) this section;
  - (f) section 149;
  - (g) Schedules 6 and 7.
- (3) Section 4 comes into force in accordance with provision to be made by the Secretary of State by order.
- (4) An order by which section 23(1) comes into force at any time may not be made unless the Lord Chancellor is satisfied that the Supreme Court will at that time be provided with accommodation in accordance with written plans that he has approved.
- (5) The Lord Chancellor may approve plans only if, having consulted the Lords of Appeal in Ordinary holding office at the time of the approval, he is satisfied that accommodation in accordance with the plans will be appropriate for the purposes of the Court.
- (6) An order under this section may make different provision for different purposes.

### Subordinate Legislation Made

- P1** S. 148 power partly exercised: 15.6.2005 appointed for specified provision by {S.I. 2005/1431}, art. 2; 31.5.2005 by {S.I. 2005/2284}, art. 2; 1.10.2005 by {S.I. 2005/2505}, art. 2; 27.2.2006 by {S.I. 2006/228}, art. 2; 3.4.2006 by {S.I. 2006/1014}, art. 2, Schs. 1, 2; 15.6.2006 by {S.I. 2006/1537}, arts. 2, 3; 20.3.2007 appointed for specified provisions by {S.I. 2007/967}, art. 2; 8.5.2007 appointed for further specified provisions and purposes by {S.I. 2007/1252}, art. 2; 2.10.2008 appointed for further specified provision by {S.I. 2008/2597}, art. 2; 1.10.2009 appointed for further specified provisions and purposes by {S.I. 2009/1604}, art. 2
- P2** S. 148(3) power wholly exercised: 8.5.2007 appointed for specified provision by {S.I. 2007/1121}, art. 2

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## 149 Short title

This Act may be cited as the Constitutional Reform Act 2005.

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