



# Human Rights Act 1998

## 1998 CHAPTER 42

### *Introduction*

#### **1 The Convention Rights.**

- (1) In this Act “the Convention rights” means the rights and fundamental freedoms set out in—
  - (a) Articles 2 to 12 and 14 of the Convention,
  - (b) Articles 1 to 3 of the First Protocol, and
  - (c) [<sup>F1</sup>Article 1 of the Thirteenth Protocol],as read with Articles 16 to 18 of the Convention.
- (2) Those Articles are to have effect for the purposes of this Act subject to any designated derogation or reservation (as to which see sections 14 and 15).
- (3) The Articles are set out in Schedule 1.
- (4) The [<sup>F2</sup>Secretary of State] may by order make such amendments to this Act as he considers appropriate to reflect the effect, in relation to the United Kingdom, of a protocol.
- (5) In subsection (4) “protocol” means a protocol to the Convention—
  - (a) which the United Kingdom has ratified; or
  - (b) which the United Kingdom has signed with a view to ratification.
- (6) No amendment may be made by an order under subsection (4) so as to come into force before the protocol concerned is in force in relation to the United Kingdom.

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#### **Textual Amendments**

- F1** Words in s. 1(1)(c) substituted (22.6.2004) by [The Human Rights Act 1998 \(Amendment\) Order 2004 \(S. I. 2004/1574\)](#), [art. 2\(1\)](#)
- F2** Words in s. 1 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S. I. 2003/1887\)](#), [art. 9](#), [Sch. 2 para. 10\(1\)](#)

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*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998, Cross Heading: Introduction. (See end of Document for details)*

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## 2 Interpretation of Convention rights.

- (1) A court or tribunal determining a question which has arisen in connection with a Convention right must take into account any—
- (a) judgment, decision, declaration or advisory opinion of the European Court of Human Rights,
  - (b) opinion of the Commission given in a report adopted under Article 31 of the Convention,
  - (c) decision of the Commission in connection with Article 26 or 27(2) of the Convention, or
  - (d) decision of the Committee of Ministers taken under Article 46 of the Convention,
- whenever made or given, so far as, in the opinion of the court or tribunal, it is relevant to the proceedings in which that question has arisen.
- (2) Evidence of any judgment, decision, declaration or opinion of which account may have to be taken under this section is to be given in proceedings before any court or tribunal in such manner as may be provided by rules.
- (3) In this section “rules” means rules of court or, in the case of proceedings before a tribunal, rules made for the purposes of this section—
- (a) by <sup>F3</sup>. . . [<sup>F4</sup>the Lord Chancellor or] the Secretary of State, in relation to any proceedings outside Scotland;
  - (b) by the Secretary of State, in relation to proceedings in Scotland; or
  - (c) by a Northern Ireland department, in relation to proceedings before a tribunal in Northern Ireland—
    - (i) which deals with transferred matters; and
    - (ii) for which no rules made under paragraph (a) are in force.

### Textual Amendments

- F3** Words in s. 2(3)(a) repealed (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S. I. 2003/1887\)](#), art. 9, **Sch. 2 para. 10(2)**
- F4** Words in s. 2(3)(a) inserted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art. 8, **Sch. para. 3**

### Modifications etc. (not altering text)

- C1** [S. 2\(3\)\(a\)](#): functions of the Secretary of State to be exercisable concurrently with the Lord Chancellor (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), **art. 3(2)** (with arts. 4, 5)

**Changes to legislation:**

There are currently no known outstanding effects for the Human Rights Act 1998, Cross  
Heading: Introduction.