



# Human Rights Act 1998

## 1998 CHAPTER 42

### *Supplemental*

#### **20 Orders etc. under this Act.**

- (1) Any power of a Minister of the Crown to make an order under this Act is exercisable by statutory instrument.
- (2) The power of <sup>F1</sup> . . . [<sup>F2</sup>the Lord Chancellor or] the Secretary of State to make rules (other than rules of court) under section 2(3) or 7(9) is exercisable by statutory instrument.
- (3) Any statutory instrument made under section 14, 15 or 16(7) must be laid before Parliament.
- (4) No order may be made by <sup>F3</sup> . . . [<sup>F4</sup>the Lord Chancellor or] the Secretary of State under section 1(4), 7(11) or 16(2) unless a draft of the order has been laid before, and approved by, each House of Parliament.
- (5) Any statutory instrument made under section 18(7) or Schedule 4, or to which subsection (2) applies, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) The power of a Northern Ireland department to make—
  - (a) rules under section 2(3)(c) or 7(9)(c), or
  - (b) an order under section 7(11),is exercisable by statutory rule for the purposes of the <sup>M1</sup>Statutory Rules (Northern Ireland) Order 1979.
- (7) Any rules made under section 2(3)(c) or 7(9)(c) shall be subject to negative resolution; and section 41(6) of the <sup>M2</sup>Interpretation Act (Northern Ireland) 1954 (meaning of “subject to negative resolution”) shall apply as if the power to make the rules were conferred by an Act of the Northern Ireland Assembly.
- (8) No order may be made by a Northern Ireland department under section 7(11) unless a draft of the order has been laid before, and approved by, the Northern Ireland Assembly.

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### Textual Amendments

- F1** Words in s. 20(2) repealed (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S. I. 2003/1887\)](#), art. 9, **Sch. 2 para. 10(2)**
- F2** Words in s. 20(2) 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**
- F3** Words in s. 20(4) repealed (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S. I. 2003/1887\)](#), art. 9, **Sch. 2 para. 10(2)**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. 20(4) 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**

### Marginal Citations

- M1** [S.I. 1979/1573 \(N.I. 12\)](#).
- M2** [1954 c. 33 \(N.I.\)](#).

## 21 Interpretation, etc.

(1) In this Act—

“amend” includes repeal and apply (with or without modifications);

“the appropriate Minister” means the Minister of the Crown having charge of the appropriate authorised government department (within the meaning of the <sup>M3</sup>Crown Proceedings Act 1947);

“the Commission” means the European Commission of Human Rights;

“the Convention” means the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950 as it has effect for the time being in relation to the United Kingdom;

“declaration of incompatibility” means a declaration under section 4;

“Minister of the Crown” has the same meaning as in the Ministers of the <sup>M4</sup>Crown Act 1975;

“Northern Ireland Minister” includes the First Minister and the deputy First Minister in Northern Ireland;

“primary legislation” means any—

- (a) public general Act;
- (b) local and personal Act;
- (c) private Act;
- (d) Measure of the Church Assembly;
- (e) Measure of the General Synod of the Church of England;
- (f) Order in Council—
  - (i) made in exercise of Her Majesty’s Royal Prerogative;
  - (ii) made under section 38(1)(a) of the <sup>M5</sup>Northern Ireland Constitution Act 1973 or the corresponding provision of the Northern Ireland Act 1998; or
  - (iii) amending an Act of a kind mentioned in paragraph (a), (b) or (c);

and includes an order or other instrument made under primary legislation (otherwise than by the [<sup>F5</sup>Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government,] a member of the Scottish Executive, a Northern Ireland Minister or a Northern Ireland

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department) to the extent to which it operates to bring one or more provisions of that legislation into force or amends any primary legislation;

“the First Protocol” means the protocol to the Convention agreed at Paris on 20th March 1952;

<sup>F6</sup>  
...

“the Eleventh Protocol” means the protocol to the Convention (restructuring the control machinery established by the Convention) agreed at Strasbourg on 11th May 1994;

[<sup>F7</sup>“the Thirteenth Protocol” means the protocol to the Convention (concerning the abolition of the death penalty in all circumstances) agreed at Vilnius on 3rd May 2002;]

“remedial order” means an order under section 10;

“subordinate legislation” means any—

- (a) Order in Council other than one—
  - (i) made in exercise of Her Majesty’s Royal Prerogative;
  - (ii) made under section 38(1)(a) of the Northern Ireland Constitution Act 1973 or the corresponding provision of the Northern Ireland Act 1998; or
  - (iii) amending an Act of a kind mentioned in the definition of primary legislation;
- (b) Act of the Scottish Parliament;
- (ba) [<sup>F8</sup>Measure of the National Assembly for Wales;
- (bb) Act of the National Assembly for Wales;]
- (c) Act of the Parliament of Northern Ireland;
- (d) Measure of the Assembly established under section 1 of the <sup>M6</sup>Northern Ireland Assembly Act 1973;
- (e) Act of the Northern Ireland Assembly;
- (f) order, rules, regulations, scheme, warrant, byelaw or other instrument made under primary legislation (except to the extent to which it operates to bring one or more provisions of that legislation into force or amends any primary legislation);
- (g) order, rules, regulations, scheme, warrant, byelaw or other instrument made under legislation mentioned in paragraph (b), (c), (d) or (e) or made under an Order in Council applying only to Northern Ireland;
- (h) order, rules, regulations, scheme, warrant, byelaw or other instrument made by a member of the Scottish Executive [<sup>F9</sup>, Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government,] a Northern Ireland Minister or a Northern Ireland department in exercise of prerogative or other executive functions of Her Majesty which are exercisable by such a person on behalf of Her Majesty;

“transferred matters” has the same meaning as in the Northern Ireland Act 1998; and

“tribunal” means any tribunal in which legal proceedings may be brought.

- (2) The references in paragraphs (b) and (c) of section 2(1) to Articles are to Articles of the Convention as they had effect immediately before the coming into force of the Eleventh Protocol.

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- (3) The reference in paragraph (d) of section 2(1) to Article 46 includes a reference to Articles 32 and 54 of the Convention as they had effect immediately before the coming into force of the Eleventh Protocol.
- (4) The references in section 2(1) to a report or decision of the Commission or a decision of the Committee of Ministers include references to a report or decision made as provided by paragraphs 3, 4 and 6 of Article 5 of the Eleventh Protocol (transitional provisions).
- (5) Any liability under the <sup>M7</sup>Army Act 1955, the <sup>M8</sup>Air Force Act 1955 or the <sup>M9</sup>Naval Discipline Act 1957 to suffer death for an offence is replaced by a liability to imprisonment for life or any less punishment authorised by those Acts; and those Acts shall accordingly have effect with the necessary modifications.

### Extent Information

- E1** For the extent of s. 21 outside the U.K. see s. 22(7)

### Textual Amendments

- F5** Words in the definition of "primary legislation" in s. 21(1) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para.56\(2\)](#) (with [Sch. 11 para. 22](#)) the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F6** S. 21(1): definition of "the Sixth Protocol" omitted (22.6.2004) by virtue of [The Human Rights Act 1998 \(Amendment\) Order 2004 \(S.I. 2004/1574\), art. 2\(2\)](#)
- F7** S. 21(1): definition of "the Thirteenth Protocol" inserted (22.6.2004) by virtue of [The Human Rights Act 1998 \(Amendment\) Order 2004 \(S.I. 2004/1574\), art. 2\(2\)](#)
- F8** Words in the definition of "subordinate legislation" in s. 21(1) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para.56\(3\)](#) (with [Sch. 11 para. 22](#)) the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F9** Words in the definition of "subordinate legislation" in s. 21(1) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para.56\(4\)](#) (with [Sch. 11 para. 22](#)) the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

### Commencement Information

- I1** S. 21 wholly in force at 2.10.2000; s. 21(5) in force at Royal Assent, see s. 22(2)(3); s. 21 in force so far as not already in force (2.10.2000) by [S.I. 2000/1851, art. 2](#)

### Marginal Citations

- M3** 1947 c. 44.  
**M4** 1975 c. 26.  
**M5** 1973 c. 36.  
**M6** 1973 c. 17.  
**M7** 1955 c. 18.  
**M8** 1955 c. 19.

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**M9** 1957 c. 53.

## **22 Short title, commencement, application and extent.**

- (1) This Act may be cited as the Human Rights Act 1998.
- (2) Sections 18, 20 and 21(5) and this section come into force on the passing of this Act.
- (3) The other provisions of this Act come into force on such day as the Secretary of State may by order appoint; and different days may be appointed for different purposes.
- (4) Paragraph (b) of subsection (1) of section 7 applies to proceedings brought by or at the instigation of a public authority whenever the act in question took place; but otherwise that subsection does not apply to an act taking place before the coming into force of that section.
- (5) This Act binds the Crown.
- (6) This Act extends to Northern Ireland.
- (7) Section 21(5), so far as it relates to any provision contained in the<sup>M10</sup> Army Act 1955, the<sup>M11</sup> Air Force Act 1955 or the<sup>M12</sup> Naval Discipline Act 1957, extends to any place to which that provision extends.

### **Subordinate Legislation Made**

- P1** S. 22(3) power partly exercised: 24.11.1998 appointed for specified provisions by [S.I. 1998/2882, art. 2](#)  
S. 22(3) power fully exercised: 2.10.2000 appointed for remaining provisions by [S.I. 2000/1851, art. 2](#)

### **Marginal Citations**

- M10** 1955 c. 18.  
**M11** 1955 c. 19.  
**M12** 1957 c. 53.

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