



# Constitutional Reform Act 2005

## 2005 CHAPTER 4

### PART 2

#### ARRANGEMENTS TO MODIFY THE OFFICE OF LORD CHANCELLOR

##### *Other provisions about the judiciary and courts*

#### **12 Powers to make rules**

- (1) Part 1 of Schedule 1 sets out a process for the exercise of rule-making powers.
- (2) Part 2 of the Schedule contains amendments of Acts that contain rule-making powers.
- (3) Those amendments—
  - (a) provide for those powers to be exercised in accordance with the process set out in Part 1 of the Schedule, and
  - (b) make consequential provision.

#### **13 Powers to give directions**

- (1) Part 1 of Schedule 2 sets out a process for the exercise of powers to give directions.
- (2) Part 2 of the Schedule contains amendments of Acts that contain powers to give directions.
- (3) Those amendments—
  - (a) provide for those powers to be exercised in accordance with the process set out in Part 1 of the Schedule, and
  - (b) make consequential provision.

#### **14 Transfer of appointment functions to Her Majesty**

Schedule 3 provides for—

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*Status: This is the original version (as it was originally enacted).*

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- (a) Her Majesty instead of the Lord Chancellor to make appointments to certain offices, and
- (b) the modification of enactments relating to those offices.

## **15 Other functions of the Lord Chancellor and organisation of the courts**

- (1) Schedule 4 provides for—
  - (a) the transfer of functions to or from the Lord Chancellor,
  - (b) the modification of other functions of the Lord Chancellor,
  - (c) the modification of enactments relating to those functions, and
  - (d) the modification of enactments relating to the organisation of the courts.
- (2) Schedule 5 makes similar provision about functions under legislation relating to Northern Ireland.

## **16 Functions of the Lord Chief Justice during vacancy or incapacity**

- (1) This section applies during any period when—
  - (a) the office of Lord Chief Justice is vacant, or
  - (b) the Lord Chief Justice is incapacitated.
- (2) During such a period—
  - (a) any function of the Lord Chief Justice may be exercised by the senior Head of Division;
  - (b) anything which falls to be done in relation to the Lord Chief Justice may be done in relation to the senior Head of Division.
- (3) The senior Head of Division is—
  - (a) the Master of the Rolls, or
  - (b) the President of the Queen’s Bench Division, if the office in paragraph (a) is vacant, or
  - (c) the President of the Family Division, if the offices in paragraphs (a) and (b) are vacant, or
  - (d) the Chancellor of the High Court, if the offices in paragraphs (a), (b) and (c) are vacant.
- (4) For the purposes of this section—
  - (a) the Lord Chief Justice is to be regarded as incapacitated only if at least three of the Heads of Division declare in writing that they are satisfied that he is incapacitated;
  - (b) in such a case, the Lord Chief Justice is to be regarded as incapacitated until at least three of the Heads of Division declare in writing that they are satisfied that he is no longer incapacitated.
- (5) In this section—
  - (a) “Lord Chief Justice” means the Lord Chief Justice of England and Wales;
  - (b) “incapacitated”, in relation to the Lord Chief Justice, means unable to exercise the functions of that office;
  - (c) “Head of Division” means each of the office holders referred to in subsection (3).