

# JUSTICE AND SECURITY ACT 2013

---

## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Schedule 3: Transitional provision*

#### **Part 1: Oversight of intelligence and security activities**

146. The transitional provisions in this Part provide that:
- if section 1 is commenced during a Parliament, then the members and Chair of the existing ISC automatically become the members and Chair of the new ISC;
  - the new ISC may have access to the documents or other information owned by, or provided to, its predecessor (the ISC created by the Intelligence Services Act 1994).

#### **Part 2: Closed material procedure**

147. *Paragraph 2* applies sections 6 to 14 and *paragraphs 7, 8* and *11* of Schedule 2 (that is, the provisions relating to the general closed material procedure) to proceedings begun but not finally determined before the coming into force of section 6 (in addition to proceedings begun on or after section 6 comes into force).
148. *Paragraph 3* provides that, except in relation to proceedings before the Supreme Court, the first time after the passing of the Act, in relation to proceedings in England and Wales or in Northern Ireland before a court of a particular description, rules of court made in exercise of powers under sections 6 to 14 may be made by the Lord Chancellor instead of by the person who would otherwise make them. Such rules are subject to the affirmative procedure. They must be laid before Parliament (after being made) and will cease to have effect if not approved by a resolution of each House before the end of a forty day period. If the rules cease to have effect, this does not affect anything done in previous reliance on the rules and the rule making procedure starts afresh.
149. *Paragraph 4* makes provision about an aspect of the order-making power to make transitional provision in section 19(2). The paragraph concerns decisions or directions falling within new section 2C(1) or 2D(1) of the Special Immigration Appeals Commission Act 1997 (inserted by section 15) which were made before section 15 comes into force. *Paragraph 4(2)* enables transitional provision to be made to allow the Secretary of State to certify such decisions with the result that any pending judicial review proceedings (or appeals from such proceedings) are terminated. The decision or direction can then be heard afresh in the Special Immigration Appeals Commission under the procedure introduced by section 15.