

**2006 No. 1014 (C.33)**

**LORD CHANCELLOR**

**LORD CHIEF JUSTICE**

**TRANSFER OF FUNCTIONS**

**JUDICIAL APPOINTMENTS AND DISCIPLINE**

**JUDICIAL APPOINTMENTS AND REMOVALS,  
NORTHERN IRELAND**

**The Constitutional Reform Act 2005 (Commencement No. 5)  
Order 2006**

*Made* - - - -

*31st March 2006*

The Lord Chancellor makes the following Order in exercise of the powers conferred upon him by section 148 of the Constitutional Reform Act 2005(a).

**Citation**

1. This Order may be cited as the Constitutional Reform Act 2005 (Commencement No. 5) Order 2006.

**Commencement of provisions of the Constitutional Reform Act 2005**

2. The provisions of the Constitutional Reform Act 2005 listed—
- (a) in Schedule 1, shall come into force on 3rd April 2006;
  - (b) in Schedule 2, shall come into force on the dates specified therein.

Dated 31st March 2006

*Falconer of Thoroton, C*

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(a) 2005 c.4.

Provisions of the Constitutional Reform Act 2005 coming into force on  
3rd April 2006

1. Section 1 (the rule of law).
2. Section 2 (qualifications for office of Lord Chancellor).
3. Section 3 (continued judicial independence).
4. Section 5(1), (2) and (5) (representations by senior judges).
5. Sections 7 and 9 (judiciary and courts in England and Wales).
6. Section 10 and section 11 (judiciary and courts in Northern Ireland), except in so far as it inserts subsection (1B)(b) into section 12 of the Justice (Northern Ireland) Act 2002(a).
7. Sections 12 and 13 and Schedules 1 and 2 (powers to make rules and give directions).
8. Section 14 (transfer of appointment functions to Her Majesty), in so far as is necessary for the purposes of paragraph 9.
9. Schedule 3, except for paragraph 3(2), (3) and (5) in respect of appointments to the offices in the Supreme Court listed in column 1 of Part 3 of Schedule 2 to the Supreme Court Act 1981(b).
10. Section 15 (other functions of the Lord Chancellor and organisation of the courts), in so far as is necessary for the purposes of paragraphs 11 and 12.
11. The following paragraphs of Schedule 4 (other functions of the Lord Chancellor and organisation of the courts)—
  - (a) paragraphs 1 to 6;
  - (b) paragraph 13;
  - (c) paragraphs 15 to 17;
  - (d) paragraphs 19 to 41;
  - (e) paragraphs 43 to 114;
  - (f) paragraph 115, in so far as not already in force;
  - (g) paragraph 116;
  - (h) paragraph 117, in so far as not already in force;
  - (i) paragraph 118, in so far as not already in force;
  - (j) paragraph 119;
  - (k) paragraph 120, in so far as not already in force;
  - (l) paragraph 121;
  - (m) paragraph 122, in so far as not already in force;
  - (n) paragraph 123, in so far as not already in force;
  - (o) paragraph 124;
  - (p) paragraphs 126 to 141;
  - (q) paragraphs 143 to 158;
  - (r) paragraphs 160 to 211;
  - (s) paragraph 212, in so far as not already in force;

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(a) 2002 c.26.

(b) 1981 c.54.

- (t) paragraphs 213 to 215;
- (u) paragraphs 217 to 228;
- (v) paragraphs 230 to 279;
- (w) paragraph 280, in so far as not already in force;
- (x) paragraphs 281 to 308;
- (y) paragraphs 310 to 330;
- (z) paragraph 331, except for sub-paragraph (2)(b)(iii) and (vi);
- (aa) paragraphs 332 to 344;
- (bb) paragraphs 346 to 350;
- (cc) paragraphs 352 to 407.

**12.** The following paragraphs of Schedule 5 (functions under legislation relating to Northern Ireland)—

- (a) paragraphs 1 to 87;
- (b) paragraphs 89 to 114;
- (c) paragraph 115(1);
- (d) paragraphs 117 to 119;
- (e) paragraph 122(1) to (3) and (5), only in so far as that sub-paragraph provides for the office of General Commissioner for a division in Northern Ireland to be a listed judicial office for the purposes of—
  - (i) section 16 of the Justice (Northern Ireland) Act 2002; and
  - (ii) sections 134 to 136 of the Constitutional Reform Act 2005;
- (f) paragraphs 124 and 125;
- (g) paragraph 126(1), (2) and (5), except in so far as that sub-paragraph relates to the office of General Commissioner for a division in Northern Ireland;
- (h) paragraph 128(1) and (2);
- (i) paragraph 129;
- (j) paragraph 131;
- (k) paragraphs 133 and 134.

**13.** Section 16 (functions of the Lord Chief Justice during vacancy or incapacity).

**14.** Section 17 (Lord Chancellor's oath).

**15.** Section 61 and Schedule 12 (The Judicial Appointments Commission), in so far as they are not already in force.

**16.** Section 62 and Schedule 13 (Judicial Appointments and Conduct Ombudsman).

**17.** Sections 63 (merit and good character) and 64 (encouragement of diversity).

**18.** Section 65(4) (guidance about procedures).

**19.** Section 85 (selection of puisne judges and other office holders), with the exception of subsection (1)(a).

**20.—**(1) Schedule 14 (the Judicial Appointments Commission: Relevant Offices and Enactments) comes into force in its entirety subject to sub-paragraphs (2) to (4).

(2) In so far as it relates to sections 85 to 97 and 99 (which relate to appointments), subject to sub-paragraphs (3) and (4) below, each entry for an office and the corresponding enactments comes into force.

(3) Where a process designed to select a person for appointment to an office listed in Schedule 14 has been started but the appointment has not been made by 3rd April 2006 then the process may be completed and the appointment made as if Schedule 14 was not in force.

(4) In so far as they relate to sections 85 to 97 and 99 (which relate to appointments) the following entries do not come into force on 3rd April 2006—

- (a) General Commissioner for a division in England and Wales;
- (b) Justice of the peace;
- (c) Justice of the peace who is not a District Judge (Magistrates' Courts);
- (d) Member of panel appointed under paragraph 2(a) of Schedule 10 to the Rent Act 1977(a);
- (e) Member of the Mental Health Review Tribunal; and
- (f) Member of panel of persons to act as members of appeal tribunals appointed under section 6(2) of the Social Security Act 1998(b) where it is a requirement that the member be a medical practitioner.

21. Sections 86 to 107 (which are about selection, complaints and references and miscellaneous matters).

22. Sections 108 to 114 (discipline).

23. Sections 115 to 118 (discipline), in so far as they are not already in force.

24. Sections 119 to 122 (delegation and exercise of functions).

25. Sections 133 to 136 (judicial appointments and removals: Northern Ireland).

26. Section 139 (confidentiality).

27. Section 145 (minor and consequential amendments), in so far as is necessary for the purposes of paragraph 28.

28. Paragraphs 1 to 6 of Schedule 17 (minor and consequential amendments).

29. Section 146 (repeals and revocations), in so far as is necessary for the purposes of paragraph 30.

30. The following Parts of Schedule 18 (repeals and revocations)—

- (a) Part 1;
- (b) Part 2, except for the repeals relating to the Pluralities Act 1838(c) and the Ecclesiastical Leasing Act 1842(d);
- (c) Part 3, except for the repeals relating to paragraph 33 of Schedule 3 to the Justice (Northern Ireland) Act 2002 and Schedule 4 to the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(e);
- (d) Part 4, except for the repeals relating to the Patronage (Benefices) Measure 1986(f) and the Priests (Ordination of Women) Measure 1993(g).

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(a) 1977 c.42.  
(b) 1998 c.14.  
(c) 1838 c.106.  
(d) 1842 c.108.  
(e) S.I. 2003/431 (N.I. 9).  
(f) 1986 No. 3.  
(g) 1993 No. 2.

## SCHEDULE 2

Article 2(b)

### Provisions of the Constitutional Reform Act 2005 coming into force after 3rd April 2006

1. Sections 67 to 84 (selection of Lord Chief Justice and Heads of Division) shall come into force on 2nd October 2006.

2. Section 85(1)(a) (selection of puisne judge of the High Court) shall come into force on 2nd April 2007.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order brings into force the following Parts of the Constitutional Reform Act 2005 (c.4)—

Part 1 (the rule of law);

Part 2 (arrangements to modify the office of Lord Chancellor), so far as not already in force, except for certain provisions in respect of Northern Ireland, and with respect to the Head and Deputy Head of Criminal Justice; Schedule 4 (other functions of the Lord Chancellor and the organisation of the courts) is commenced except in respect of functions relating to ecclesiastical patronage and the Supreme Court of the United Kingdom; Schedule 5 (functions under legislation relating to Northern Ireland) is commenced with certain exceptions;

Part 4 (judicial appointments and discipline) so far as not already in force except for certain entries in Schedule 14 (the Judicial Appointments Commission: Relevant Offices and Enactments) in so far as they relate to appointment functions; sections 67 to 84 and section 85(1)(a) are brought into force at the later dates specified in Schedule 2 of this Order;

Part 5 (judicial appointments and removals: Northern Ireland) with respect to removals only; and

Part 7 (general provisions); Part 1 of Schedule 17 (minor and consequential amendments) and Parts 1, 2 and 4 of Schedule 18 (repeals and revocations) are commenced except with respect to ecclesiastical patronage functions; Part 3 of Schedule 18 (functions under legislation relating to Northern Ireland) is commenced with certain exceptions.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 15(2) (partially).	31.08.2005	2005/2284
Sections 45 and 46.	27.02.2006	2006/228
Sections 65(1) to (3).	01.10.2005	2005/2505
Section 66.	01.10.2005	2005/2505
Section 85(3).	01.10.2005	2005/2505
Sections 115 to 118 (partially).	01.10.2005	2005/2505
Section 123 (partially).	15.06.2005	2005/1431
Section 132.	15.06.2005	2005/1431
Schedule 4: paragraphs 115(2)(c) and (5)(b), 117(2)(b) and (4)(b), 118(3), 120(3)(b), 122(2)(a) and (4), 123(4), 125, 142, 212(3), 216, 229, 280(2), 309, 345 and 351.	01.10.2005	2005/2505
Schedule 5: paragraphs 122(4) and 126(4).	31.08.2005	2005/2284
Schedule 12: paragraph 26 (partially).	01.10.2005	2005/2505

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Order 2006

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