

# CONSTITUTIONAL REFORM ACT 2005

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 7: General**

#### **Commentary on Sections**

#### ***Section 144: Orders and Regulations***

375. **Section 144** regulates the way in which the Lord Chancellor may exercise the order making powers conferred on him elsewhere in the Act. These will generally be subject to the negative resolution procedure in Parliament, except for the following, which will be subject to the affirmative resolution procedure:
- an order under section 85(2)(a) or (b) (selection of puisne judges and other office holders) that amends Part 1 of Schedule 14 (The Judicial Appointments Commission: relevant offices and enactments);
  - an order under section 19(1) (transfer, modification or abolition of functions by order) which amends a public general Act, except where the only amendment is to include a function of the Lord Chancellor in Schedule 7 (protected functions of the Minister);
  - an order under section 19(1) (transfer, modification or abolition of functions by order) which amends subordinate legislation of which a draft was required to be laid before and approved by each House of Parliament, except where the only amendment consists of a provision that falls within subsection 2(b) of section 19
  - an order under section 143 (supplementary provision etc) which amends a public general Act;
  - an order under paragraph 5 of Schedule 12 (the Judicial Appointments Commission).
376. In addition, commencement orders made under sections 66(5) and 148 are, as usual with such instruments, not subject to Parliamentary scrutiny.