

# LAW COMMISSION ACT 2009

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## EXPLANATORY NOTES

### COMMENTARY ON CLAUSES

#### *Section 1: Reports on implementation of Law Commission proposals*

9. *Section 1* inserts a new section 3A into the 1965 Act. The following references to subsections are references to subsections of that new section 3A.
10. *Subsection (1)* requires the Lord Chancellor to prepare an annual report, which must be laid before Parliament, on the implementation of Law Commission proposals.
11. The Lord Chancellor will also be required to set out plans for dealing with any Law Commission proposals which have not been implemented and provide the reasoning behind decisions not to implement proposals. The section provides a mechanism through which Government is to account for the way in which it has dealt with Law Commission proposals.
12. *Subsections (4) and (5)* provide that once a decision is taken not to implement a Law Commission proposal, it does not need to be addressed again by the Lord Chancellor in later reports.
13. *Subsection (6)* sets out the meaning of “Law Commission proposal” by reference to section 3(1)(c) and (d) of the 1965 Act. Such a proposal is either one formulated after the Law Commission has examined a particular branch of the law (see section 3(1)(c)) or a proposal for consolidation or statute law revision for which a draft Bill has been prepared (see section 3(1)(d)).

#### *Section 2: Protocol about the Law Commission’s work*

14. *Section 2* inserts a new section 3B into the 1965 Act. The following references to subsections are references to subsections of that new section 3B.
15. *Subsection (1)* provides that the Lord Chancellor and Law Commission may agree a protocol about the Law Commission’s work. The protocol is designed to provide a framework for the relationship between the UK Government and the Law Commission. The Lord Chancellor must lay the protocol before Parliament.
16. *Subsection (2)* sets out examples of what matters the protocol may include. For example, it may include provision about the principles and methods to be applied in deciding the work to be carried out by the Law Commission. However this list is non-exhaustive.
17. *Subsection (3)* provides that the protocol is to be reviewed from time to time and may be revised.
18. *Subsection (5)* provides that Ministers of the Crown and the Law Commission must have regard to the protocol.
19. The protocol addresses the relationship between the Law Commission and other parts of Government. It relates only to existing powers and functions, and does not create

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new powers or confer new functions. It is not intended to create directly enforceable rights and obligations.