
EXPLANATORY NOTE

(This note is not part of the Order)

This Order transfers, modifies or abolishes certain functions of the Lord Chancellor contained in primary legislation and contained in secondary legislation which is subject to the approval of either or both Houses of Parliament.

The transfers and modifications form part of the implementation of the Concordat agreed between the Lord Chancellor and the Lord Chief Justice in January 2004. The Concordat sets out the principles governing the allocation of functions between the Lord Chancellor and the Lord Chief Justice, following the removal of the Lord Chancellor's judicial functions by the Constitutional Reform Act 2005 (c. 4).

The amendments enacted by Schedules 1 and 2 to this Order transfer certain of the Lord Chancellor's functions to the Lord Chief Justice, and require certain functions to be exercised by the Lord Chancellor only after consulting, or obtaining the concurrence of the Lord Chief Justice (or vice-versa). In relation to certain functions applicable beyond England and Wales the Lord President of the Court of Session and the Lord Chief Justice of Northern Ireland have equivalent roles to that of the Lord Chief Justice in relation to England and Wales.

In addition, Schedule 1 abolishes the functions of the Lord Chancellor as a Lord of Appeal.

A separate Order made under the negative resolution procedure, the Lord Chancellor (Transfer of Functions and Supplementary Provisions) Order 2006, makes similar amendments to provisions contained in secondary legislation which are subject to annulment by either House of Parliament.

Schedule 3 to this Order makes a supplementary provision to the amendment made by paragraph 199 of Schedule 4 to the Constitutional Reform Act 2005.