



# Human Rights Act 1998

## 1998 CHAPTER 42

### *Remedial action*

#### **10 Power to take remedial action.**

- (1) This section applies if—
  - (a) a provision of legislation has been declared under section 4 to be incompatible with a Convention right and, if an appeal lies—
    - (i) all persons who may appeal have stated in writing that they do not intend to do so;
    - (ii) the time for bringing an appeal has expired and no appeal has been brought within that time; or
    - (iii) an appeal brought within that time has been determined or abandoned; or
  - (b) it appears to a Minister of the Crown or Her Majesty in Council that, having regard to a finding of the European Court of Human Rights made after the coming into force of this section in proceedings against the United Kingdom, a provision of legislation is incompatible with an obligation of the United Kingdom arising from the Convention.
- (2) If a Minister of the Crown considers that there are compelling reasons for proceeding under this section, he may by order make such amendments to the legislation as he considers necessary to remove the incompatibility.
- (3) If, in the case of subordinate legislation, a Minister of the Crown considers—
  - (a) that it is necessary to amend the primary legislation under which the subordinate legislation in question was made, in order to enable the incompatibility to be removed, and
  - (b) that there are compelling reasons for proceeding under this section,he may by order make such amendments to the primary legislation as he considers necessary.
- (4) This section also applies where the provision in question is in subordinate legislation and has been quashed, or declared invalid, by reason of incompatibility with a

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**Changes to legislation:** *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Human Rights Act 1998. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

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Convention right and the Minister proposes to proceed under paragraph 2(b) of Schedule 2.

- (5) If the legislation is an Order in Council, the power conferred by subsection (2) or (3) is exercisable by Her Majesty in Council.
- (6) In this section “legislation” does not include a Measure of the Church Assembly or of the General Synod of the Church of England.
- (7) Schedule 2 makes further provision about remedial orders.

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**Commencement Orders yet to be applied to the Human Rights Act 1998:**

Commencement Orders bringing legislation that affects this Act into force:

- [S.I. 2009/1059](#) Order transitional provisions for effects of commencing SI 2009/812