



# Human Rights Act 1998

## 1998 CHAPTER 42

### *Legislation*

#### **5 Right of Crown to intervene.**

- (1) Where a court is considering whether to make a declaration of incompatibility, the Crown is entitled to notice in accordance with rules of court.
- (2) In any case to which subsection (1) applies—
  - (a) a Minister of the Crown (or a person nominated by him),
  - (b) a member of the Scottish Executive,
  - (c) a Northern Ireland Minister,
  - (d) a Northern Ireland department,is entitled, on giving notice in accordance with rules of court, to be joined as a party to the proceedings.
- (3) Notice under subsection (2) may be given at any time during the proceedings.
- (4) A person who has been made a party to criminal proceedings (other than in Scotland) as the result of a notice under subsection (2) may, with leave, appeal to the [<sup>F1</sup>Supreme Court] against any declaration of incompatibility made in the proceedings.
- (5) In subsection (4)—

“criminal proceedings” includes all proceedings before the [<sup>F2</sup>Court Martial Appeal Court]; and

“leave” means leave granted by the court making the declaration of incompatibility or by the [<sup>F3</sup>Supreme Court]

#### **Annotations:**

#### **Amendments (Textual)**

- F1** Words in s. 5(4) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 66\(3\)](#); [S.I. 2009/1604, art. 2\(d\)](#)

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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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- F2** Words in s. 5(5) substituted (28.3.2009 for certain purposes and 31.10.2009 otherwise) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 157](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F3** Words in s. 5(5) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 66\(3\)](#); S.I. 2009/1604, [art. 2\(d\)](#)

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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