

# CRIMINAL JUSTICE AND IMMIGRATION ACT 2008

---

## EXPLANATORY NOTES

### THE ACT

#### *Commentary on Sections*

#### **Part 12: General**

#### ***Section 147: Orders, rules and regulations***

839. This section makes provision in connection with the various powers under the Act to make orders or regulations. The affirmative resolution procedure applies to instruments made under the powers listed in *subsection (5)*. The effect of *subsection (3)* is that all other powers are subject to the negative resolution procedure, except for powers listed in subsections (4)(a) to (c) (namely the powers to make commencement orders under section 153, to make an order under paragraph 26(5) of Schedule 1 (power to specify the description of a person responsible for monitoring an electronic monitoring requirement attached to a YRO), and to make an Order in Council under paragraph 9 of Part 2 of Schedule 17 (power to extend certain provisions of the Customs and Excise Management Act 1979 to the Channel Islands or any British overseas territory)) where no parliamentary procedure applies. *Subsection (2)* provides that any power under the Act to make orders or regulations includes a power to make provision generally or only for specified cases or circumstance and to make different provision for different cases, circumstances or areas. This subsection also enables orders and regulations to make incidental, supplemental, consequential, transitional, transitory or saving provisions.

#### ***Section 148 and Schedules 26 and 27: Consequential etc. amendments and transitional and saving provision***

840. This section enables the Secretary of State by order to make supplementary, incidental, consequential, transitory, transitional or saving provision for the purposes of the Act. It is a power to make consequential provisions for those purposes at any time, including amendments to primary and secondary legislation. The affirmative resolution procedure will apply to any order which amends or repeals primary legislation. The section also introduces Schedule 26 (minor and consequential amendments) and Schedule 27 (transitory, transitional and saving provisions).