

United Kingdom - "Constitution"

{ ICL Document Status: 1992 }

{ Editor's note:

*This document is **not** a written Constitution (cf. Section [1](#)), but rather a compilation of information material originally provided by the British Embassy for purposes of publication. Most of the information has not been updated since the date mentioned in the ICL Document Status. However, some amendments have been included whenever information about changes of the law was provided to ICL. }*

Chapter 1 Human Rights

Part 1 Legal Framework

Section 1 Overview

There is no written constitution or comprehensive Bill of Rights; Britain's constitution is to be found partly in conventions and customs and partly in statute. The Act known as the Bill of Rights 1689 deals with the exercise of the royal prerogative and succession to the Crown.

The British legal system provides some remedies to deal with human rights abuses. For instance, the remedy of 'habeas corpus' secures the individual's right to freedom from any unlawful or arbitrary detention.

Parliament, however, has power to enact any law and change any previous law. There is no fundamental distinction between 'public law' and 'private law'. Any person can take proceedings against the Government or a local government authority to protect his or her legal rights and to obtain a remedy for any injury suffered.

Britain has not generally codified its law and courts adopt a relatively strict and literal approach to the interpretation of statutes.

The ratification of a treaty or international convention does not make it automatically part of the domestic law. Where necessary, the Government amends domestic law to bring it in line with the convention. Because of Britain's membership of the European Community, Community law is part of British law

and takes precedence in the event of conflict between the two.

Part 2 International Human Rights

Section 2 International Arrangements

Since the Universal Declaration of Human Rights is not a legally binding document, the UN General Assembly adopted, in 1966, the 'International Covenant on Economic, Social and Political Rights' and the 'International Covenant on Civil and political Rights'. Britain ratified both covenants in 1976. Britain is bound by the Council of Europe's 1953 'European Convention for the Protection of Human Rights and Fundamental Freedoms'. The Convention allows individual petitions against governments to the European Commission on Human Rights, if all possible domestic remedies have been exhausted. Since 1966 Britain has accepted the right of individual petition under the Convention and the compulsory jurisdiction of the European Court of Human Rights. The outcome of some cases has led to changes in British law to improve human rights, for example the abolition of corporal punishment in state schools and improved rights for prisoners. Britain is not a party to the Convention's Fourth Protocol (Freedom of Movement) because of inconsistency with some aspects of the United Kingdom immigration control system nor the Sixth Protocol (abolition of the death penalty).

Part 3 General Provisions

Section 3 Human Dignity

All human beings are born free and equal in dignity and rights, endowed with reason and conscience, and should act towards one another in a spirit of brotherhood.

Section 4 Equality

Everyone is equally entitled to all rights and freedoms without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.

(1) Sex Discrimination: It is unlawful to treat one person less favorably than another on grounds of sex when offering employment. This also applies to

education courses and the provision to the public of housing, goods, facilities and services such as insurance. Advertisements indicating an intention to discriminate in this way are also illegal.

(2) Equal Pay: Women employed by the same employer can claim the same pay as men for work of equal value. This right also applies to work which is the same or broadly similar or work which is judged equal by a job evaluation scheme. The same rights apply to men.

(3) European Community Legislation: States are obliged to eliminate discrimination in state social security schemes providing protection against sickness, unemployment, invalidity, old age, accidents at work or occupational diseases.

(4) Racial Equality: It is unlawful to treat one person less favorably than another on grounds of race, color, nationality or ethnic or national origins. This applies to employment (including training), education, and the provision to the public of housing, goods, facilities and services, and premises. Discriminatory advertisements are also unlawful.

Part 4 Integrity

Section 5 Personal Integrity

Everyone has the right to life, Liberty, and the security of person.

(1) Taking of Life: The mandatory penalty for murder is imprisonment for life. Anyone sent to prison for murder is liable to be detained for the rest of his or her life but may be released on license.

(2) Control of Firearms: There is strict licensing and control over the sale of firearms and their possession. Private ownership of highly dangerous weapons is banned.

(3) Victims of violent crime, including foreign nationals, may apply for compensation under the Criminal Injuries Compensation Scheme. In 1990 the Government published its Victims' Charter setting out for the first time the rights and expectations of victims of violent and other crime. There are more than 350 victim support schemes with over 6,000 trained volunteers which help well over 500,000 people a year.

(4) In Northern Ireland the security forces have special powers to search, question and arrest suspected terrorists. Throughout Britain the maximum period for which the police can hold a suspected terrorist is 48 hours. This period can be extended for up to five days with the consent of the appropriate Secretary of State. The Government has powers to ban terrorist organizations in Northern Ireland and in the rest of Britain.

(5) Incitement to racial hatred is a criminal offence. It is against the law to use threatening, abusive, or insulting words or to display, publish or distribute such material. It is also an offence to possess racially inflammatory material, the

police having powers of search, seizure and forfeiture.

Section 6 Abolishment of Slavery

No one may be held in slavery or servitude; slavery and the slave trade are prohibited.

Section 7 Punishment

No one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.

(1) If a police officer fails to comply with this provision, he or she can be disciplined and the courts may reject any evidence so obtained.

(2) Custody: Under the Criminal Justice Act 1991, the offence must be so serious that it merits custody. Longer custodial sentences - within the statutory maxima - will be given to persistent violent and sexual offenders in order to protect the public from serious harm.

(3) Most prisoners are eligible for remission of one third of their sentence. Release is unconditional and does not involve any official supervision in the community. It may be forfeited for serious misconduct in prison.

(4) Parole: Prisoners serving more than 12 months can be released conditionally on parole when they have served one third of the sentence, or six months, whichever expires the later. Three quarters of prisoners serving sentences of less than two years receive parole. The parole license remains in force until the date on which the prisoner would otherwise have been released from prison.

(5) Life Sentence Prisoners: People serving life sentences for the murder of police and prison officers, terrorist murders, murder by firearms in the course of crime or the sexual or sadistic murder of children are normally detained for at least 20 years. Life sentence prisoners are released on life license and are subject to recall should their behavior suggest that they might again be a danger to the public.

Section 8 Marriage and Family

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

(4) All marriages are registered by the State. It is unlawful to force anyone to marry against his or her will or to bring about a marriage by fraudulent means.

(5) Members of the family are in an advantageous position in matters of succession. If death occurs without a valid will, the spouse and children of the deceased have priority. Children have equal rights of inheritance from parents whether the parents are married or unmarried.

Section 9 Property

- (1) Everyone has the right to own property alone as well as in association with others.
- (2) No one shall be arbitrarily deprived of his property.
- (3) Compensation is paid for any losses suffered through compulsory purchase or the deterioration of property as a result of activities by public authorities.

Part 5 Legal Protection

Section 10 Dignity before courts

Everyone has the right to recognition everywhere as a person before the law.

Section 11 Equality before the law

All are equal before the law and are entitled without any discrimination to equal protection of the law.

Section 12 Redress and Remedies

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

(1) Redress and Remedies: Everyone has the right of access to the courts and to the legal remedies available there.

(2) Legal aid schemes help people with limited resources to meet the cost of work done by a lawyer. Solicitors give legal advice and assistance to suspects at police stations.

(3) All state authorities are subject to judicial control. Government departments and public authorities can be sued for compensation for wrongful acts or breach of contract in the same way as individuals.

Section 13 Fair Trial

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations and of any criminal charge against him.

- (1) Civil and criminal cases are heard by an independent judiciary.
- (2) In criminal cases the prosecution must prove guilt beyond reasonable doubt. Following a series of miscarriages of justice which took place in the mid 1970s, the Government has set up a Royal Commission to examine the effectiveness of the criminal justice system.
- (3) In jury trials the judge decides questions of law, sums up the evidence for the jury, and discharges the accused or passes sentence. A jury is independent of the judiciary. Any attempt to interfere with the jury once it is sworn in is a criminal offence.
- (4) Publicity: Court proceedings are normally held in public and reporters from the media are admitted. In rape cases, the identity of the complainant cannot be reported.

Section 14 Presumption of Innocence

- (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
- (2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Part 6 Liberties

Section 15 Personal Liberty

No one shall be subjected to arbitrary arrest, detention, or exile. Everyone has a legal right to personal liberty. No one can be arrested with the exception of those suspected of committing a crime, those failing to comply with certain civil court orders, or individuals in contempt of a superior court or of Parliament. An arrest to enforce a court order in civil proceedings can only be made under a warrant issued by a court or by a power of arrest granted by the court in cases of domestic violence.

- (1) Arrests in Criminal Proceedings: The police have power to arrest a suspect without a warrant if he or she is reasonably suspected of involvement in an arrestable offence, that is, one where the maximum penalty is five years imprisonment or more. They must normally obtain a warrant before arresting someone for other offenses; an immediate arrest without a warrant may, however, take place if the police believe it is not possible or appropriate to issue a summons to appear in court, for instance where a suspect refuses to give a name and address.

(2) An arrested person has the right to:

- consult a solicitor;
- ask the police to notify a relative or other named person likely to take an interest in his or her welfare; and
- consult the code of practice regarding treatment in police custody.

The police may delay the exercise of the first two of these rights for up to 36 hours.

(3) Consultation: Solicitors are available on a 2 hour basis to offer free legal advice for people being questioned at police stations. The police must caution a suspect before any questions are put for the purpose of obtaining evidence. The caution informs the suspect that he or she is entitled to refuse to answer questions - the so-called 'right of silence'.

(4) The suspect may not normally be detained for more than 24 hours without charge. In the case of a suspect arrested in connection with a serious arrestable offence, however, he or she may be detained for up to 36 hours without charge on the authority of a senior police officer; if the police wish to detain the suspect for longer than 36 hours, they must obtain authority from a court, which may not grant authority for a period beyond 96 hours from first detention. Reviews must be made of a person's detention at regular intervals to check whether the criteria for detention are still satisfied. If they are not, the person must be released immediately.

(5) Tape recording of interviews with suspected offenders at police stations are universal practice.

(6) Habeas Corpus: Anyone who thinks that his or her detention is illegal may apply to the High Court for a writ of habeas corpus against the person detaining him or her. If no lawful cause can be shown, the prisoner must be released immediately. A habeas corpus case has priority over other cases in the order of court business.

(7) Bail: Most accused people are released on bail pending trial. They are not remanded in custody except where strictly necessary.

Section 16 Right to Privacy

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Every one has the right to the protection of the law against such interference or attacks.

(1) The common law allows people to speak and act in their own homes as they please and to carry on their daily business, provided that they do not infringe the rights of others or commit an offence.

(2) Parents are free to bring up their children as they so wish, provided that they do not infringe laws against cruelty and exposure to moral and physical danger. Parents also have to observe the law regarding compulsory education of their children.

(3) Is a criminal offence for a man to commit a homosexual act with a person under the age of 18. The age was changed from 21 to 18 with a vote of 336 to

129. A [1999 bill](#) to further reduce that age to 16 has failed.

(4) Privacy and the Press: Action is being taken by the Government to deal with media intrusion into the privacy of individuals. The law against libel gives protection against attacks on a person's honor and reputation.

(5) Some other forms of intrusion are criminal offenses, for example, the use of unlicensed radio transmitters for bugging, the harassment of tenants to make them quit, or the sending of unsolicited obscene material through the post. Other attempts to obtain private information may involve offenses of criminal trespass.

(6) Interception of Communications: Legislation authorizes governmental interception of postal and telephone services but only on certain limited grounds. Any interception outside these procedures is a criminal offence.

(7) Computers: Under the Data Protection Act 1984, which gives effect to a Council of Europe Convention, data users are required to register a description of the personal data they hold, the purposes for which they use it, the sources from which they obtain it and the categories of person to whom they may disclose it. They must also provide an address to which data subjects may write for access to the data. Individuals have the legal right to know about the data held on them and the right to ask a court to have factually wrong or misleading data corrected or deleted. In addition they have the right to claim compensation for damages if the data are lost, inaccurate, or disclosed without authority.

Section 17 Freedom of Movement

(1) Everyone has the right to freedom of movement and residence within the borders of each State.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

Section 18 Freedom of Religion

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

(1) Worship and religious teaching take place without any interference from the State. There is complete freedom of thought, conscience or form of worship and no restriction on the right of any citizen to change his or her religion. Atheists and agnostics are also free to propagate their views.

(2) A person may, however, be held guilty of blasphemous libel if he or she publishes scurrilous and offensive references to Christianity that go beyond the limits of proper controversy. This does not apply to debate and discussion about the truth of Christian doctrines.

(3) Churches and religious societies of all kinds own property, run schools and propagate their beliefs in speech and writing. Inquiries are not made about

religion in population censuses or other official returns.

(4) There is no religious bar to the holding of public office except in the case of the Sovereign who must by law be a Protestant. The Church of England and the Church of Scotland are the established 'official' churches for state ceremonies of a religious nature. Their members, however, do not obtain any advantages from being members of an established church rather than of any other church.

(5) Religious education has to be provided in all schools financed from public funds and is part of the national curriculum. Parents have the right to ask for their children to be withdrawn from such classes. Some publicly maintained schools are provided by religious denominations and receive varying amounts of public finance, according to type.

(6) Television and radio programs are broadcast on religious topics; these include religious services as well as programs in which adherents of the main religions and non-believers discuss their views. Advertising aiming to promote religious ends is not permitted on television or radio.

Section 19 Freedom of Expression

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers.

(1) Restrictions include the official secrets, civil defamation, criminal libel, obscenity, sedition, incitement to racial hatred, and contempt of court.

(2) There are legal remedies against defamation. Fair comment on matters of public interest may be a defence. Proof that the alleged defamatory matter is true is also a defence. In the same way, frank discussion of sexual problems is not considered to be an infringement of the law on obscenity.

(3) There is no state control or censorship of the press. Foreign language papers are freely imported.

(4) British broadcasting is based on the tradition that it is a public service accountable to the people through Parliament. Television and radio services are provided by the British Broadcasting Corporation (BBC). Other operators are licensed individually by the Independent Television Commission (ITC) and the Radio Authority. The responsibilities of these public bodies are set out in legislation. The Government itself is not responsible for program content or broadcasters' day-to-day conduct of business.

(5) The independence of the broadcasters requires them to maintain certain standards regarding programs and program content. Under the relevant legislation and the codes of practice applied by the broadcasting authorities, programs must display, as far as possible, a proper balance and wide range of subject matter, and impartiality in matters of controversy. There are also rules relating to violence and standards of taste and decency in television programs, particularly during hours when large numbers of children are likely to be watching. Broadcasters must also comply with the general law relating to obscenity and incitement to racial hatred.

(6) According to 1991 European agreements on cross-border broadcasting, programs may not be indecent, contain pornography, give undue emphasis to violence, or be likely to incite racial hatred. Nor should programs unsuitable for children be broadcast when they can be expected to be watching.

(7) Theater: There is no censorship of plays. It is, however, a criminal offence to present or direct an obscene performance of a play in public or private. Such a performance is defined as one which, taken as a whole, tends to 'deprave and corrupt persons who are likely to attend it'. There is a defence against an obscenity charge on the grounds that the performance is for the public good in the interest of drama, opera or literature.

(8) Films and Video: Government has no power to censor films. Cinemas are licensed by local government authorities, which have a legal duty to prohibit the admission of children under 16 to unsuitable films, and may prevent the showing of any film, although this particular power is hardly ever exercised. In assessing the suitability of films, authorities rely on the British Board for Film Classification, an independent non-statutory body to which films offered to the public must be submitted.

Part 7 Political Rights

Section 20 General Political Rights

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

(4) Britain is a parliamentary democracy, the Government being responsible to the people through the elected House of Commons, which has the power to force a government to resign on a vote of no-confidence. The other House in the British Parliament is the non-elected House of Lords, which is normally a chamber of discussion and revision of proposals and not a rival to the Commons. Its powers to delay legislation are limited by law.

(5) Candidature for parliamentary elections is open to anyone aged 21 and over who is eligible to vote.

(6) The secret ballot is used in all British elections. The electoral system is the 'simple majority' system. The candidate with the largest number of votes is elected.

(7) Officials working in central and local government have a long tradition of political neutrality. A change of minister therefore does not involve a change of departmental staff, whose functions remain the same whichever political party is

in office.

Public offices are open to men and women, without distinction on grounds of sex, religion, race or color. Staff are recruited to the Civil Service and its executive agencies through fair and open competition solely on the basis of merit.

Section 21 Political Asylum

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

(3) Britain is a signatory of the 1951 United Nations Convention Relating to the Status of Refugees and its 1967 Protocol and continues to meet its obligations to refugees under these instruments. The Convention defines a refugee as a person who has a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion'.

(4) Britain and the other European Community members have signed the Dublin Convention, which defines when a member state is responsible for dealing with an asylum application. Applicants may no longer lodge successive claims in different countries.

(5) Under recent legislation people are not extradited to face trial or imprisonment if they face persecution on grounds of race, religion, nationality or political opinion. British extradition law prevents extradition for political offenses.

Section 22 Nationality

(1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

(3) British citizenship is acquired automatically at birth by a child born in Britain if the father (in cases of legitimate birth) or mother is a British citizen or is settled in Britain.

(4) British Dependent Territories citizens, British Nationals (Overseas), British overseas citizens, British subjects under the Citizenship Act and British protected persons are entitled to be registered as British citizens after five years' residence in Britain. British Dependent Territories citizens from Gibraltar have an absolute right to be registered as British citizens without needing to reside in Britain.

(5) Commonwealth citizens, citizens of the Irish Republic and foreign nationals can acquire British citizenship by naturalization.

(6) British citizenship can be renounced by a person if he or she possesses, or is about to acquire, the nationality or citizenship of another country.

(7) Under the Hong Kong Act 1985 citizens are entitled to acquire a new form of nationality, that of British National (Overseas), together with a passport showing

that an entry clearance is not required to visit Britain. In April 1990 legislation was passed to give British citizenship to 50,000 key people in Hong Kong and their dependents without their having to leave the territory to qualify. Its purpose is to persuade these people - selected under a points system - to remain in Hong Kong so that the territory can remain stable and prosperous up to the change to Chinese sovereignty in 1997 and beyond.

Section 23 Assemblies and Associations

- (1) Everyone has the right to freedom of peaceful assembly and association.
- (2) No one may be compelled to belong to an association.

Part 8 Social Rights

Section 24 General Social Rights

Everyone, as a member of society, has the right to social security and is entitled to the realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Section 25 Work

- (1) Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.
- (2) Everyone, without any discrimination, has the right to equal pay for equal work.
- (3) Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
- (4) Everyone has the right to form and to join trade unions for the protection of his interests.
- (5) The Employment Service, an executive agency of the Department of Employment, helps unemployed people to find work through its job placement and other services and pays benefits and allowances to those entitled to them.
- (6) A fundamental reform of the vocational qualifications system is being undertaken by the National Council for Vocational Qualifications. It aims to develop a system of nationally recognized vocational qualifications based on standards of workplace competence set by employers. Equal esteem for academic and vocational qualifications is being promoted with clearer and more

accessible paths between them.

(7) In most industries the pay and conditions of workers are settled by national and/or plant bargaining between employers and trade unions.

(8) Laws impose duties on employers and others to ensure the health, safety and welfare of their employees in factories offices, mines, building sites and all other work activities.

(9) People may join trade unions, which have members in virtually every occupation and some 10 million members in all. Dismissals for union membership or non-membership are automatically unfair. It is also unlawful for an employer to refuse to employ an individual on the grounds of that individual's membership or non-membership of a trade union.

Section 26 Working hours

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

The basic working week in Great Britain is about 37,5 to 40 hours for manual work and 35 to 38 for non-manual work. A five-day week is usually worked. Overtime is paid at higher rates.

Section 27 Home

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

(3) The National Health Service (NHS) provides comprehensive health care to all residents. Treatment is based on medical priority regardless of patients' income and is financed mainly out of general taxation. Patients pay charges for prescriptions although in practice some 75 per cent are supplied free, since charges do not apply to people on low incomes, children, expectant mothers, pensioners and other groups.

(4) Patients are free to seek private medical treatment and doctors, dentists, opticians and pharmacists are able to practice privately. NHS hospital doctors, too, can practice privately, subject to certain rules. There is limited provision for them to treat their private patients in NHS hospitals. NHS patients are sometimes treated at public expense in private hospitals. Some 7,5 million people are covered by private medical insurance.

(5) A local authority may apply to the court for a child care order. This can only be made by the court if it is satisfied that the child is suffering, or is likely to

suffer, significant harm.

(6) Children who break the criminal law are brought before youth courts.

(7) The social security system aims to provide financial help to people who are elderly, sick, disabled, unemployed, widowed or bringing up children. The system includes contributory national insurance benefits covering sickness, invalidity, unemployment, widowhood, and retirement. There is also statutory sick pay and maternity pay paid for their employees by employers. Another part of the system consists of non-contributory benefits such as child benefit paid for every child in a family and a range of benefits for severely disabled people and those looking after them.

(8) Preventive services are designed to safeguard the health of pregnant women and mothers with young children. Pregnant working women have the right to visit clinics during working hours. Nearly all women have their babies in hospital, returning home shortly after to be attended by a midwife or health visitor and, where necessary, the family doctor. Child health centers check the physical and mental health of pre-school children. There are voluntary programs of immunization against diphtheria, measles, rubella (women of child-bearing age and girls only), poliomyelitis, tetanus, tuberculosis, and whooping cough. There is a combined vaccination against measles, mumps and rubella for children in the second year of life.

(9) Statutory maternity pay is available for up to 18 weeks when a woman is away from work because of her pregnancy. The pay is 90 per cent of earnings for six weeks followed by a flat rate payment for a further 12 weeks. To qualify, a woman must have worked for the same employer for at least two years; where a woman has been employed for between six months and two years, she is entitled to payments for the full 18 weeks at the flat rate only. If a woman does not qualify for maternity pay, she may receive a maternity allowance if she has worked for an employer or as a self-employed person and paid a specified number of national insurance contributions. The allowance is paid for 18 weeks.

(10) Britain is a party to the Council of Europe's convention on the legal status of children born to unmarried parents. This provides for common rules under which the legal status of such children is the same as for those born to a married couple. Legislation has been passed to remove former legal disadvantages suffered by children of unmarried parents.

(11) Under the Abortion Act 1967, as amended in 1990, a pregnancy may only be terminated if two registered doctors consider that this step is justified in terms of one or more of the grounds specified in the Act. The Act does not apply in Northern Ireland.

(12) The birth of the world's first 'test tube baby' took place in Britain in 1978, using the technique of in-vitro fertilization. The social, ethical, and legal implications were examined by a committee of enquiry under Baroness Warnock, which concluded that certain specialized forms of infertility treatment, including artificial insemination by donor and in-vitro fertilization, were ethically acceptable. The committee also considered that research on human embryos could take place under certain conditions.

(13) About two thirds of the housing stock in Britain is owner-occupied. With a

few exceptions, secure public sector tenants have the right to buy their house or flat at a discount if they have been public sector tenants for at least two years. Under legislation passed in 1988 a Housing Action Trust can be proposed for an area of public sector housing in England and Wales. If the majority of tenants vote in support of a proposal to set up a Trust in their area, the Trust, which is a public body, takes over the ownership of the housing in order to undertake major physical, social, and economic regeneration. Once the work is completed, the tenants decide on the future of their homes, such as a transfer to a housing association, formation of a tenants' co-operative, or a return to the local government authority. Additional low-cost housing is provided by non-profit-making housing associations.

(14) Local government authorities have a statutory duty to ensure that accommodation is provided for people who are or are about to become unintentionally homeless.

(15) It is a criminal offence for a landlord to harass tenants. If tenants are driven out by harassment or illegally evicted, they must be compensated. If a landlord harasses or evicts a tenant in order to re-let at market rent, the courts may award damages to the tenant based on the profit made by the landlord. As a general principle, tenants and most other residential occupiers cannot be evicted without a court order.

Section 28 Education, Science, and the Arts

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

(4) The state education system is free, but a small proportion of children attend private fee-paying schools. Local education authorities have to meet the parents' wishes unless the school is full or, if selective, the child does not meet required academic standards. Secondary schools - those catering for 11- to 16-year-olds - in England and Wales are required to admit pupils up to the limit of their available physical capacity if there is sufficient demand on behalf of eligible children by parents.

(5) Children whose learning difficulties are severe or complex, wherever possible, are educated in ordinary schools.

Section 29 Culture

- (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts, and to share in scientific advancement and its benefits.
- (2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary, or artistic production of which he is the author.
- (3) The Government and local government authorities give financial support to the arts. The preservation of the artistic heritage is encouraged by tax relief and other measures including certain controls on the export of works of art. The Arts Council allocates funds to the major opera, dance, and drama companies, symphony orchestras, small touring theaters, experimental groups, and creative artists.
- (4) Original literary, dramatic, musical, or artistic works, films, and sound recordings are automatically protected. The copyright owner has rights against unauthorized reproduction, public performance, and broadcasting of his or her work. In most cases the author is the first owner of the copyright, its term being the life of the author and a period of 50 years after his or her death (50 years from the date of release for films and sound recordings). Under legislation passed in 1988 authors have the right to be identified on their works and to object to any unjustified modifications of them. The law also protects performers against the trading in unauthorized recordings of live performance, the term of protection being 50 years from the year in which the performance is given. A copyright work first published in Britain has automatic copyright in all other countries which are members of the Berne Copyright Convention and the Universal Copyright Convention. The law secures the rights of the originators of inventions, new industrial designs, and trade marks. Protection is also available under the European Patent Convention and the Patent Co-operation Treaty; benefits may be claimed in other countries under the International Convention for the Protection of Industrial Property.
- (5) The Government has taken steps to protect the ownership of ideas by means of patents, registered designs, trade marks, and copyright. Measures include the extension of copyright protection to computer software owners, the extension of trade marks to cover services, and powers to enable customs authorities to prevent the entry of counterfeit goods. Legislation passed in 1988 made provision for a new form of protection for designs and made litigation regarding patents simpler and cheaper.

Part 9 Restrictions

Section 30 Restrictions

- (1) Everyone has duties to the community in which alone the free and full development of his personality is possible.
- (2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order, and the general welfare in a democratic society.
- (3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Chapter 2 State Organization

Part 1 Overview

Section 31 Basic Structure

- (1) The British constitution is made up of statute law, common law, and conventions. Conventions are rules and practices which are not legally enforceable but which are regarded as indispensable to the working of government; many are derived from the historical events through which the British system of government has evolved.
- (2) The Queen is head of State and an important symbol of national unity. She is:
 - head of the executive;
 - an integral part of the legislature;
 - head of the judiciary;
 - commander-in-chief of all the Armed Forces of the Crown; and
 - the 'supreme governor' of the established Church of England.The Queen acts on the advice of her ministers. Britain is governed by Her Majesty's Government in the name of the Queen. In international affairs the Queen, as head of State, has the power to declare war and make peace, to recognize foreign states and governments, to conclude treaties and to annex or cede territory.
- (3) Three elements make up Parliament - the Queen, the House of Lords and the elected House of Commons. The agreement of all three is normally required for legislation. As there are no legal restraints imposed by a written constitution, Parliament can make or change any law. It can even prolong its own life beyond the normal period without consulting the electorate. In practice, however, Parliament does not assert its supremacy in this way.
- (4) The validity of an Act of Parliament, once passed, cannot be disputed in the law courts. The House of Commons is directly responsible to the electorate, and

in this century the House of Lords has recognized the supremacy of the elected chamber. The system of party government helps to ensure that Parliament legislates with its responsibility to the electorate in mind.

(5) A Parliament has a maximum duration of five years, but in practice general elections are usually held before the end of this term. The maximum life has been prolonged by legislation in rare circumstances such as the two world wars.

Part 2 Parliament

Section 32 House of Commons

(1) Officers: The officers of the House of Commons are the Speaker, three Deputy Speakers and other permanent officers and staff (Clerks, Serjeants, Library, Official Report, Finance and Administration, and Refreshment).

(2) Electorate: British citizens, together with citizens of other Commonwealth countries and citizens of the Irish Republic resident in Britain, may vote provided they are aged 18 or over, included in the annual register of electors for the constituency, and not subject to any disqualification.

(3) Elections: For electoral purposes Britain is divided into 651 constituencies, each of which returns one member to the House of Commons. Each elector may cast one vote, normally in person at a polling station. Voting is not compulsory; 76.9 per cent of a total electorate of 43.3 million people voted in the general election in April 1992. The simple majority system of voting is used. Candidates are elected if they have more votes than any of the other candidates, although not necessarily an absolute majority over all other candidates.

(4) Candidates: British citizens and citizens of other Commonwealth countries, together with citizens of the Irish Republic, may stand for election as MPs provided they are aged 21 or over and are not disqualified. A candidate must also deposit 500 pounds, which is returned if he or she receives 5 per cent or more of the votes cast. The maximum sum a candidate may spend on a general election campaign is 4,330 pounds plus 3.7 pence for each elector in a borough constituency or 4.9 pence for each elector in a county constituency. All election expenses, apart from the candidate's personal expenses, are subject to the statutory limit.

Section 33 Parties

(1) Parties are not registered or formally recognized in law, but in practice most candidates in elections, and almost all winning candidates, belong to one of the main parties. In 1992 General Elections, the Conservative Party reached 42%, Labour Party 35%, and the Liberal Democrats 18% of votes.

(2) Since 1945 either the Conservative Party, whose origins go back to the

eighteenth century, or the Labour Party, which emerged in the last decade of the nineteenth century, has held power. A new party - the Liberal Democrats - was formed in 1988 when the Liberal Party, which could trace its origins to the eighteenth century, merged with the Social Democratic Party, which was formed in 1981.

(3) Leaders of the Government and Opposition sit on the front benches on either side of the Commons chamber with their supporters - the backbenchers - sitting behind them. Inside Parliament, party control is exercised by the Chief Whips and their assistants, who are chosen within the party.

(4) Annual assistance from public funds helps opposition parties carry out their parliamentary work at Westminster. It is limited to parties which had at least two members elected at the previous general election or one member elected and a minimum of 150,000 votes cast. The amount is 2,550 pounds for every seat won, plus 5.10 pounds for every 200 votes.

Section 34 Procedure

(1) Each subject starts off as a proposal or 'motion' by a member. At the end of each debate the question may be decided without voting, or by a simple majority vote. The Speaker has discretion on whether to allow a motion to end discussion so that a matter may be put to the vote and has powers to put a stop to irrelevance and repetition in debate, and to save time in other ways.

(2) In a tied vote the Speaker gives a casting vote, without expressing an opinion on the merits of the question.

(3) Members with a financial interest in a debate in the House must declare it when speaking. To act as a disqualification from voting the interest must be direct, immediate and personal.

(4) Proceedings of both Houses are normally public and visitors can watch the proceedings from the galleries of both chambers. The minutes and speeches are published daily. The records of the Lords from 1497 and of the Commons from 1547, together with the parliamentary and political papers of a number of former members of both Houses, are available to the public through the House of Lords Record Office. The proceedings of both Houses of Parliament may be broadcast on television and radio, either live or, more usually, in recorded or edited form.

Section 35 Legislation

(1) Bills: Draft laws take the form of parliamentary Bills. Most are public Bills involving measures relating to public policy. Private Bills deal with matters of individual, corporate or local interest. Proposals for legislative changes are sometimes set out in government 'White Papers'. Consultation papers, sometimes called 'Green Papers', set out government proposals which are still taking shape and seek comments from the public.

(2) A draft law is given a first reading in the House of Commons without debate;

this is followed by a thorough debate on general principles at second reading. It is then given detailed consideration, clause by clause, by a Commons committee before report stage in the whole House, and a third and final reading.

(3) Bills must normally be passed by both Houses. They must then receive the Royal Assent before becoming Acts. In practice this is a formality.

Section 36 Committees

(1) Standing committees debate and consider amendments to public Bills at the committee stage and, in certain cases, discuss them at the second reading stage. Ordinary standing committees do not have names but are referred to simply as Standing Committee A, B, C, and so on; a new set of members are appointed to them to consider each Bill. Each committee has between 16 and 50 members, with a party balance reflecting as far as possible that in the House as a whole.

(2) Select committees are appointed, normally for the duration of a Parliament, to examine subjects by taking written and oral evidence. After private discussion they report their conclusions and recommendations. Committees include those on European Legislation, Science and Technology, Public Accounts, Members' Interests, and the Parliamentary Commissioner for Administration.

(3) Party Committees: In addition to the official committees of the two Houses there are several unofficial party organizations or committees. The Conservative and Unionist Members' Committee (the 1922 Committee) consists of the backbench membership of the party in the House of Commons. When the Conservative Party is in office, ministers attend its meetings by invitation and not by right. When the party is in opposition, the whole membership of the party may attend meetings. The leader appoints a consultative committee, which acts as the party's 'shadow cabinet'.

Section 37 House of Lords

There are opportunities for criticism and examination of government policy in the House of Lords at daily question time and during debates on general motions. Other opportunities include 'unstarred' questions, which can be debated at the end of the day's business, and debates on proposed legislation.

Section 38 Finances

The Finance Act is the most important of the annual statutes, and authorizes the raising of revenue. The legislation is based on the Chancellor of the Exchequer's Budget statement, normally made in March or April each year. It includes a review of the public finances of the previous year, and proposals for the estimated expenditure of the coming year. Scrutiny of public expenditure is

carried out by House of Commons select committees.

Section 39 European Community Affairs

To keep the two Houses informed of European Community developments, and to enable them to scrutinise and debate Community policies and proposals, there is a select committee in each House and two standing committees debate specific European legislative proposals in the House of Commons. Ministers also make regular statements about Community business.

Section 40 Members of Parliament

(1) Members of Parliament represent all their constituents, including those who voted for other parties.

(2) The privileges of the members of the Commons include freedom of speech; freedom from arrest in civil actions; exemption from serving on juries, or being compelled to attend court as witnesses; and the right of access to the Crown, which is a collective privilege of the House.

Section 41 Parliamentary Ombudsman

The Parliamentary Commissioner for Administration investigates, independently, complaints of maladministration when asked to do so by MPs on behalf of members of the public. The Commissioner must report annually to Parliament. He or she also publishes details of selected investigations at quarterly intervals and may submit other reports where necessary.

Part 3 Government

Section 42 Composition

(1) The Prime Minister is appointed by the Queen, and all other ministers are appointed by the Queen on the recommendation of the Prime Minister. Most ministers are members of the Commons, although the Government is also fully represented by ministers in the Lords. The Lord Chancellor is always a member of the House of Lords.

(2) The composition of governments can vary both in the number of ministers and in the titles of some offices.

(3) The Prime Minister is, by tradition, First Lord of the Treasury and Minister for the Civil Service. The Prime Minister's office is located at 10 Downing Street in

central London.

(4) Ministers in charge of government departments are usually in the Cabinet; they are known as 'Secretary of State' or 'Minister', or may have a special title, as in the case of the Chancellor of the Exchequer.

(5) To keep the workload of the Cabinet within manageable limits, a great deal of work is carried on through the committee system. The membership of all ministerial Cabinet committees is published.

(6) The doctrine of collective responsibility means that the Cabinet acts unanimously even when Cabinet ministers do not all agree on a subject.

Section 43 Lobby

As press adviser to the Prime Minister, the Prime Minister's Press Secretary and other staff in the Prime Minister's Press Office have direct contact with the parliamentary press through regular meetings with the Lobby correspondents. The Lobby correspondents are a group of political correspondents who have the special privilege of access to the Lobby of the House of Commons where they can talk privately to government ministers and other members of the House. The Prime Minister's Press Office is the accepted channel through which information about parliamentary business is passed to the media.

Section 44 Privy Council

The main function of the Privy Council is to advise the Queen to approve Orders in Council - those made under prerogative powers and those made under statutory powers. Cabinet ministers must be Privy Counsellors and are sworn in on first assuming office.

Part 4 Local Government

Section 45 Local authority councils

(1) Local authority councils consist of elected councillors, elected on a similar basis to parliamentary elections. They serve for four years.

(2) In the metropolitan counties, district councils are responsible for all services apart from the police, the fire service and public transport and, in some areas, waste regulation and disposal. In Greater London the boroughs and the City Corporation have similar functions but London's metropolitan police force is directly responsible to the Home Secretary.

(3) Local authorities in Great Britain raise revenue through a council tax. Each household receives a single bill based on the market value of property and the

number of adults living in it. Couples on low incomes will be entitled to rebates of up to 100 per cent on their council tax bills.

Part 5 Judiciary

Section 46 Legal System in General

(1) Although Britain is a unitary state, England and Wales, Scotland and Northern Ireland all have their own legal systems, with considerable differences in law, organization and practice. However, a large amount of modern legislation applies throughout Britain. The law is divided into criminal law and civil law; the latter regulates the conduct of people in ordinary relations with one another. The distinction between the two is reflected in the procedures used, the courts in which cases may be heard and the sanctions which may be applied.

(2) The legal system of England and Wales comprises both an historic body of conventions known as common law and equity, and parliamentary and European Community legislation. Common law, which is based on custom and interpreted in court cases by judges, has never been precisely defined or codified. It forms the basis of the law except when superseded by legislation. Equity law consists of a body of historic rules and principles which are applied by the courts. The English legal system is therefore distinct from many of those of Western Europe, which have codes derived from Roman law.

(3) European Community law, which applies throughout Britain, is confined mainly to economic and social matters; in certain circumstances it takes precedence over domestic law. It is normally applied by the domestic courts, but the most authoritative rulings are given by the Community's Court of Justice.

Section 47 Judiciary in General

(1) The judiciary is independent of the executive; its judgments are not subject to ministerial direction or control. The Prime Minister recommends the highest judicial appointments to the Crown.

(2) The Lord Chancellor is head of the judiciary, except in Scotland. His responsibilities include court procedure and the administration of courts.

Section 48 Criminal Courts

(1) Summary or less serious offenses, which make up the vast majority of criminal cases, are tried in England and Wales by unpaid lay magistrates - justices of the peace (JPs), although in areas with a heavy workload there are a number of full-time, stipendiary magistrates. More serious offenses are tried by

the Crown Court, presided over by a judge sitting with a jury. The Crown Court sits at about 90 centers and is presided over by High Court judges, full-time 'circuit judges' and part-time recorders.

(2) Appeals from the magistrates' courts go before the Crown Court or the High Court. Appeals from the Crown Court are made to the Court of Appeal (Criminal Division). The House of Lords is the final appeal court in all cases.

Section 49 Civil Courts

(1) Magistrates' courts have limited civil jurisdiction. The 286 county courts have a wider jurisdiction; cases are normally tried by judges sitting alone. The 80 or so judges in the High Court cover civil cases and some criminal cases, and also deal with the appeals. The High Court sits at the Royal Courts of Justice in London or at 26 district registries. Appeals from the High Court are heard in the Court of Appeal (Civil Division), and may go on to the House of Lords, the final court of appeal.

Section 50 Tribunals

(1) Tribunals are a specialized group of judicial bodies, akin to courts of law. They are normally set up under statutory powers which also govern their constitution, functions and procedure. Tribunals often consist of laypeople, but they are generally chaired by someone who is legally qualified. They tend to be less expensive, and less formal, than courts of law.

(2) Independently of the executive, tribunals decide the rights and obligations of private citizens towards one another or towards a government department or other public authority. Important examples are industrial tribunals, rent tribunals and social security appeal tribunals.

(3) In many cases there is a right of appeal to a higher tribunal and, on points of law, to the courts. Tribunals do not normally employ staff or spend money themselves, but their expenses are paid by the government departments concerned. An independent Council on Tribunals exercises general supervision over many tribunals.

Section 51 European Courts

(1) The Court of Justice consists of 13 judges. It interprets and adjudicates on the meaning of the treaties and on measures taken by the Council of Ministers and the Commission. It also hears complaints and appeals brought by or against Community institutions, member states or individuals and gives preliminary rulings on cases referred by courts in member states. It represents the final authority on all aspects of Community law.

(2) The Single European Act of 1986 provided for a Court of First Instance to

relieve the Court of Justice of a substantial part of its workload. The new court began working in 1989.