
Constitutional Law, Administrative Law, and Human Rights: A Critical Introduction (8th edn)
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Publisher: Oxford University Press  Print Publication Date: Apr 2018
Print ISBN-13: 9780198804680  Published online: Sep 2018
DOI: 10.1093/he/9780198804680.001.0001


Chapter:

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DOI: 10.1093/he/9780198804680.003.0021

This chapter analyses some leading cases wherein the courts addressed different aspects of the Human Rights Act 1998, and draws out the constitutional implications of the courts’ initial conclusions. The discussions cover the interlinked issues of the extent to which the courts have recognised a distinction between Convention articles and Convention Rights, the approach taken to statutory interpretation mandated by s 3, and the use of Declarations of Incompatibility under s 4; the doctrine of judicial ‘deference’ to legislative policy decisions; the ‘horizontality’ of the Act and its impact on the development of the common law; and the status of proportionality as a ground of review of executive action. The chapter concludes with an assessment of whether the Act triggered a shift in understandings on the proper scope of the
doctrines of the sovereignty of Parliament and the rule of law within the modern constitutional order.

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