Chapter: 7. Human rights in the United Kingdom

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This chapter considers the European Convention on Human Rights (ECHR) and its relationship to the English legal system. The focus in the chapter is on key provisions of the Human Rights Act 1998—the Act that incorporated the Convention into UK law. In the earlier part of the chapter there is coverage of sections 2, 3, and 4 of the Act. These provisions concern the duties placed on the courts to take into account judgments of the European Court of Human Rights, to interpret domestic legislation so as to comply with rights under the Convention, and finally to issue a declaration of incompatibility when domestic legislation does not comply with rights under the Convention. Using examples from the case law, the chapter assesses how the courts balance their constitutional role to respect the supremacy of Parliament, with the duties provided in the Act to respect rights under the Convention. There is also an analysis of s.6 of the Human Rights Act 1998 which makes it unlawful for a public authority to act incompatibly with Convention rights. The analysis
includes the contested question of what precisely constitutes a ‘public authority’, particularly when a private body is carrying out a public function.

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