



Civil Procedure Act 1997

1997 CHAPTER 12

Rules and directions

1 Civil Procedure Rules

- (1) There are to be rules of court (to be called “Civil Procedure Rules”) governing the practice and procedure to be followed in—
 - (a) the civil division of the Court of Appeal,
 - (b) the High Court, and
 - (c) county courts.
- (2) Schedule 1 (which makes further provision about the extent of the power to make Civil Procedure Rules) is to have effect.
- (3) The power to make Civil Procedure Rules is to be exercised with a view to securing that the civil justice system is accessible, fair and efficient.

2 Rule Committee

- (1) Civil Procedure Rules are to be made by a committee known as the Civil Procedure Rule Committee, which is to consist of—
 - (a) the Master of the Rolls,
 - (b) the Vice-Chancellor, and
 - (c) the persons currently appointed by the Lord Chancellor under subsection (2).
- (2) The Lord Chancellor must appoint—
 - (a) one judge of the Supreme Court,
 - (b) one Circuit judge,
 - (c) one district judge,
 - (d) one person who is a Master referred to in Part II of Schedule 2 to the Supreme Court Act 1981,
 - (e) three persons who have a Supreme Court qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990), including at least one with particular experience of practice in county courts,

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- (f) three persons who have been granted by an authorised body, under Part II of that Act, the right to conduct litigation in relation to all proceedings in the Supreme Court, including at least one with particular experience of practice in county courts,
 - (g) one person with experience in and knowledge of consumer affairs, and
 - (h) one person with experience in and knowledge of the lay advice sector.
- (3) Before appointing a judge of the Supreme Court under subsection (2)(a), the Lord Chancellor must consult the Lord Chief Justice.
- (4) Before appointing a person under paragraph (e) or (f) of subsection (2), the Lord Chancellor must consult any body which—
- (a) has members who are eligible for appointment under that paragraph, and
 - (b) is an authorised body for the purposes of section 27 or 28 of the Courts and Legal Services Act 1990.
- (5) The Lord Chancellor may reimburse the members of the Civil Procedure Rule Committee their travelling and out-of-pocket expenses.
- (6) The Civil Procedure Rule Committee must, before making or amending Civil Procedure Rules—
- (a) consult such persons as they consider appropriate, and
 - (b) meet (unless it is inexpedient to do so).
- (7) The Civil Procedure Rule Committee must, when making Civil Procedure Rules, try to make rules which are both simple and simply expressed.
- (8) Rules made by the Civil Procedure Rule Committee must be signed by at least eight members of the Committee and be submitted to the Lord Chancellor, who may allow or disallow them.

3 Section 2: supplementary

- (1) Rules made and allowed under section 2 are to—
- (a) come into force on such day as the Lord Chancellor may direct, and
 - (b) be contained in a statutory instrument to which the Statutory Instruments Act 1946 is to apply as if it contained rules made by a Minister of the Crown.
- (2) A statutory instrument containing Civil Procedure Rules shall be subject to annulment in pursuance of a resolution of either House of Parliament.

4 Power to make consequential amendments

- (1) The Lord Chancellor may by order amend, repeal or revoke any enactment to the extent he considers necessary or desirable in consequence of—
- (a) section 1 or 2, or
 - (b) Civil Procedure Rules.
- (2) The Lord Chancellor may by order amend, repeal or revoke any enactment passed or made before the commencement of this section to the extent he considers necessary or desirable in order to facilitate the making of Civil Procedure Rules.
- (3) Any power to make an order under this section is exercisable by statutory instrument.

- (4) A statutory instrument containing an order under subsection (1) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) No order may be made under subsection (2) unless a draft of it has been laid before and approved by resolution of each House of Parliament.

5 Practice directions

- (1) Practice directions may provide for any matter which, by virtue of paragraph 3 of Schedule 1, may be provided for by Civil Procedure Rules.
- (2) After section 74 of the County Courts Act 1984 there is inserted—

“Practice directions

74A Practice directions

- (1) Directions as to the practice and procedure of county courts may be made by the Lord Chancellor.
- (2) Directions as to the practice and procedure of county courts may not be made by any other person without the approval of the Lord Chancellor.
- (3) The power of the Lord Chancellor to make directions under subsection (1) includes power—
 - (a) to vary or revoke directions made by him or any other person, and
 - (b) to make different provision for different cases or different areas, including different provision—
 - (i) for a specific court, or
 - (ii) for specific proceedings, or a specific jurisdiction, specified in the directions.
- (4) References in this section to the Lord Chancellor include any person authorised by him to act on his behalf.”

Civil Justice Council

6 Civil Justice Council

- (1) The Lord Chancellor is to establish and maintain an advisory body, to be known as the Civil Justice Council.
- (2) The Council must include—
 - (a) members of the judiciary,
 - (b) members of the legal professions,
 - (c) civil servants concerned with the administration of the courts,
 - (d) persons with experience in and knowledge of consumer affairs,
 - (e) persons with experience in and knowledge of the lay advice sector, and
 - (f) persons able to represent the interests of particular kinds of litigants (for example, businesses or employees).

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- (3) The functions of the Council are to include—
 - (a) keeping the civil justice system under review,
 - (b) considering how to make the civil justice system more accessible, fair and efficient,
 - (c) advising the Lord Chancellor and the judiciary on the development of the civil justice system,
 - (d) referring proposals for changes in the civil justice system to the Lord Chancellor and the Civil Procedure Rule Committee, and
 - (e) making proposals for research.
- (4) The Lord Chancellor may reimburse the members of the Council their travelling and out-of-pocket expenses.

Court orders

7 Power of courts to make orders for preserving evidence, etc

- (1) The court may make an order under this section for the purpose of securing, in the case of any existing or proposed proceedings in the court—
 - (a) the preservation of evidence which is or may be relevant, or
 - (b) the preservation of property which is or may be the subject-matter of the proceedings or as to which any question arises or may arise in the proceedings.
- (2) A person who is, or appears to the court likely to be, a party to proceedings in the court may make an application for such an order.
- (3) Such an order may direct any person to permit any person described in the order, or secure that any person so described is permitted—
 - (a) to enter premises in England and Wales, and
 - (b) while on the premises, to take in accordance with the terms of the order any of the following steps.
- (4) Those steps are—
 - (a) to carry out a search for or inspection of anything described in the order, and
 - (b) to make or obtain a copy, photograph, sample or other record of anything so described.
- (5) The order may also direct the person concerned—
 - (a) to provide any person described in the order, or secure that any person so described is provided, with any information or article described in the order, and
 - (b) to allow any person described in the order, or secure that any person so described is allowed, to retain for safe keeping anything described in the order.
- (6) An order under this section is to have effect subject to such conditions as are specified in the order.
- (7) This section does not affect any right of a person to refuse to do anything on the ground that to do so might tend to expose him or his spouse to proceedings for an offence or for the recovery of a penalty.
- (8) In this section—

“court” means the High Court, and
“premises” includes any vehicle;
and an order under this section may describe anything generally, whether by reference to a class or otherwise.

8 Disclosure etc. of documents before action begun

- (1) The Lord Chancellor may by order amend the provisions of section 33(2) of the Supreme Court Act 1981, or section 52(2) of the County Courts Act 1984 (power of court to order disclosure etc. of documents where claim may be made in respect of personal injury or death), so as to extend the provisions—
 - (a) to circumstances where other claims may be made, or
 - (b) generally.
- (2) The power to make an order under this section is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

General

9 Interpretation

- (1) A court the practice and procedure of which is governed by Civil Procedure Rules is referred to in this Act as being “within the scope” of the rules; and references to a court outside the scope of the rules are to be read accordingly.
- (2) In this Act—
 - “enactment” includes an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978), and
 - “practice directions” means directions as to the practice and procedure of any court within the scope of Civil Procedure Rules.

10 Minor and consequential amendments

Schedule 2 (which makes minor and consequential amendments) is to have effect.

11 Short title, commencement and extent

- (1) This Act may be cited as the Civil Procedure Act 1997.
- (2) Sections 1 to 10 are to come into force on such day as the Lord Chancellor may by order made by statutory instrument appoint, and different days may be appointed for different purposes.
- (3) This Act extends to England and Wales only.