



Courts Act 2003

2003 CHAPTER 39

PART 7

PROCEDURE RULES AND PRACTICE DIRECTIONS

Family Procedure Rules and practice directions

75 Family Procedure Rules

- (1) There are to be rules of court (to be called “Family Procedure Rules”) governing the practice and procedure to be followed in family proceedings in—
 - (a) the High Court,
 - (b) county courts, and
 - (c) magistrates' courts.
- (2) Family Procedure Rules are to be made by a committee known as the Family Procedure Rule Committee.
- (3) “Family proceedings”, in relation to a court, means proceedings in that court which are family proceedings as defined by either—
 - (a) section 65 of the 1980 Act, or
 - (b) section 32 of the Matrimonial and Family Proceedings Act 1984 (c. 42).
- (4) The power to make Family Procedure Rules includes power to make different provision for different areas, including different provision—
 - (a) for a specified court or description of courts, or
 - (b) for specified descriptions of proceedings or a specified jurisdiction.
- (5) Any power to make or alter Family Procedure Rules is to be exercised with a view to securing that—
 - (a) the family justice system is accessible, fair and efficient, and
 - (b) the rules are both simple and simply expressed.

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76 Further provision about scope of Family Procedure Rules

- (1) Family Procedure Rules may not be made in respect of matters which may be dealt with in probate rules made by the President of the Family Division, with the concurrence of the Lord Chancellor, under section 127 of the 1981 Act.
- (2) Family Procedure Rules may —
 - (a) modify or exclude the application of any provision of the County Courts Act 1984 (c. 28), and
 - (b) provide for the enforcement in the High Court of orders made in a divorce county court.
- (3) Family Procedure Rules may modify the rules of evidence as they apply to family proceedings in any court within the scope of the rules.
- (4) Family Procedure Rules may apply any rules of court (including in particular Civil Procedure Rules) which relate to—
 - (a) courts which are outside the scope of Family Procedure Rules, or
 - (b) proceedings other than family proceedings.
- (5) Any rules of court, not made by the Family Procedure Rule Committee, which apply to proceedings of a particular kind in a court within the scope of Family Procedure Rules may be applied by Family Procedure Rules to family proceedings in such a court.
- (6) In subsections (4) and (5) “rules of court” includes any provision governing the practice and procedure of a court which is made by or under an enactment.
- (7) Where Family Procedure Rules may be made by applying other rules, the other rules may be applied—
 - (a) to any extent,
 - (b) with or without modification, and
 - (c) as amended from time to time.
- (8) Family Procedure Rules may, instead of providing for any matter, refer to provision made or to be made about that matter by directions.

77 Family Procedure Rule Committee

- (1) The Family Procedure Rule Committee is to consist of—
 - (a) the President of the Family Division, and
 - (b) the persons currently appointed by the Lord Chancellor under subsection (2).
- (2) The Lord Chancellor must appoint—
 - (a) two judges of the Supreme Court, at least one of whom must be a puisne judge attached to the Family Division,
 - (b) one Circuit judge,
 - (c) one district judge of the principal registry of the Family Division,
 - (d) one district judge appointed under section 6 of the County Courts Act 1984 (c. 28),
 - (e) one District Judge (Magistrates' Courts),
 - (f) one lay justice,
 - (g) one justices' clerk,
 - (h) one person who has—

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- (i) a Supreme Court qualification, and
 - (ii) particular experience of family practice in the High Court,
 - (i) one person who has—
 - (i) a Supreme Court qualification, and
 - (ii) particular experience of family practice in county courts,
 - (j) one person who has—
 - (i) a Supreme Court qualification, and
 - (ii) particular experience of family practice in magistrates' courts,
 - (k) one person who—
 - (i) has been granted by an authorised body, under Part 2 of the 1990 Act, the right to conduct litigation in relation to all proceedings in the Supreme Court, and
 - (ii) has particular experience of family practice in the High Court,
 - (l) one person who—
 - (i) has been so granted that right, and
 - (ii) has particular experience of family practice in county courts,
 - (m) one person who—
 - (i) has been so granted that right, and
 - (ii) has particular experience of family practice in magistrates' courts,
 - (n) one person nominated by CAF/CASS, and
 - (o) one person with experience in and knowledge of the lay advice sector or the system of justice in relation to family proceedings.
- (3) Before appointing a person under subsection (2), the Lord Chancellor must consult the President of the Family Division.
- (4) Before appointing a person under subsection (2)(a), the Lord Chancellor must consult the Lord Chief Justice.
- (5) Before appointing a person under subsection (2)(h) to (m), the Lord Chancellor must consult any body which—
 - (a) has members eligible for appointment under the provision in question, and
 - (b) is an authorised body for the purposes of section 27 or 28 of the 1990 Act.
- (6) The Lord Chancellor may reimburse the members of the Family Procedure Rule Committee their travelling and out-of-pocket expenses.

78 Power to change certain requirements relating to Committee

- (1) The Lord Chancellor may by order—
 - (a) amend section 77(2) (persons to be appointed to Committee by Lord Chancellor), and
 - (b) make consequential amendments in any other provision of section 77.
- (2) Before making an order under this section the Lord Chancellor must consult the President of the Family Division.

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79 Process for making Family Procedure Rules

- (1) The Family Procedure Rule Committee must, before making Family Procedure Rules—
 - (a) consult such persons as they consider appropriate, and
 - (b) meet (unless it is inexpedient to do so).
- (2) Rules made by the Family Procedure Rule Committee must be—
 - (a) signed by a majority of the members of the Committee, and
 - (b) submitted to the Lord Chancellor.
- (3) The Lord Chancellor may allow, disallow or alter rules so made.
- (4) Before altering rules so made the Lord Chancellor must consult the Committee.
- (5) Rules so made, as allowed or altered by the Lord Chancellor—
 - (a) come into force on such day as the Lord Chancellor directs, and
 - (b) are to be contained in a statutory instrument to which the Statutory Instruments Act 1946 (c. 36) applies as if the instrument contained rules made by a Minister of the Crown.
- (6) Subject to subsection (7), a statutory instrument containing Family Procedure Rules is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) A statutory instrument containing rules altered by the Lord Chancellor is of no effect unless approved by a resolution of each House of Parliament before the day referred to in subsection (5)(a).

80 Power to amend legislation in connection with the rules

The Lord Chancellor may by order amend, repeal or revoke any enactment to the extent that he considers necessary or desirable—

- (a) in order to facilitate the making of Family Procedure Rules, or
- (b) in consequence of section 75, 76 or 79 or Family Procedure Rules.

81 Practice directions relating to family proceedings

- (1) The President of the Family Division may, with the concurrence of the Lord Chancellor, give directions as to the practice and procedure of—
 - (a) county courts, and
 - (b) magistrates' courts,in family proceedings.
- (2) Directions as to the practice and procedure of those courts in family proceedings may not be given by anyone other than the President of the Family Division without the approval of the President of the Family Division and the Lord Chancellor.
- (3) The power to give directions under subsection (1) includes power—
 - (a) to vary or revoke directions as to the practice and procedure of magistrates' courts and county courts (or any of them) in family proceedings, whether given by the President of the Family Division or any other person,
 - (b) to give directions containing different provision for different cases (including different areas), and

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- (c) to give directions containing provision for a specific court, for specific proceedings or for a specific jurisdiction.