



Scottish Civil Justice Council and Criminal Legal Assistance Act 2013

2013 asp 3

PART 1

SCOTTISH CIVIL JUSTICE COUNCIL

Functions and powers

2 Functions of the Council

- (1) The functions of the Council are—
- (a) to keep the civil justice system under review,
 - (b) to review the practice and procedure followed in proceedings in the Court of Session and in civil proceedings in the sheriff court,
 - (c) to prepare and submit to the Court of Session draft civil procedure rules,
 - (d) to provide advice and make recommendations to the Lord President on the development of, and changes to, the civil justice system, and
 - (e) to provide such advice on any matter relating to the civil justice system as may be requested by the Lord President.
- (2) In carrying out its functions under this Act, the Council must have regard to—
- (a) the principles in subsection (3), and
 - (b) any guidance issued by the Lord President.
- (3) The principles are—
- (a) the civil justice system should be fair, accessible and efficient,
 - (b) rules relating to practice and procedure should be as clear and easy to understand as possible,
 - (c) practice and procedure should, where appropriate, be similar in all civil courts, and
 - (d) methods of resolving disputes which do not involve the courts should, where appropriate, be promoted.

Status: This is the original version (as it was originally enacted).

- (4) For the purposes of this Part, “draft civil procedure rules” are draft rules which relate to a matter in subsection (5).
- (5) Those matters are—
- (a) any matter relating to a court within the remit of the Council which the Court of Session may regulate by act of sederunt,
 - (b) any matter relating to a court within the remit of the Council in anticipation of the Court of Session being given power to regulate the matter by act of sederunt, or
 - (c) any matter relating to a proposed court in anticipation of—
 - (i) the court being established and added to the remit of the Council, and
 - (ii) the Court of Session being given power to regulate the matter by act of sederunt.
- (6) The courts within the remit of the Council are—
- (a) the Court of Session, and
 - (b) the sheriff court.

3 Powers of the Council

- (1) The Council may take such action as it considers necessary or desirable in pursuance of its functions.
- (2) In particular, the Council may—
- (a) have regard to proposals for legislative reform which may affect the civil justice system,
 - (b) have regard to the criminal justice system and its effects on the civil justice system,
 - (c) consult such persons as it considers appropriate,
 - (d) co-operate with, and seek the assistance and advice of, such persons as it considers appropriate,
 - (e) make proposals for research into the civil justice system,
 - (f) provide advice and make recommendations to the Scottish Ministers on the development of, and changes to, the civil justice system, and
 - (g) publish any recommendation it makes.

4 Court of Session to consider rules

- (1) The Court of Session must consider any draft civil procedure rules submitted to it by the Council and may—
- (a) approve the rules,
 - (b) approve the rules with such modifications as it considers appropriate, or
 - (c) reject the rules.
- (2) Where the Court of Session approves draft civil procedure rules (with or without modification) it must embody the approved rules in an act of sederunt.
- (3) Nothing in this Part affects the powers of the Court of Session to prepare or make rules which relate to a matter in section 2(5).

5 Annual programme and report

- (1) The Council must prepare an annual plan setting out its objectives and priorities for each yearly period beginning on 1 April before the start of that period (“the programme”).
- (2) The Council must prepare an annual report on its activities as soon as reasonably practicable after the end of each yearly period ending on 31 March (“the report”).
- (3) The report must include a summary of the recommendations made (if any) by the Council during the period covered by the report.
- (4) The Council must lay a copy of the programme and the report before the Scottish Parliament.
- (5) In complying with the duty in subsection (4), the Council may combine the programme for the coming year with the report for the ending year.