

Draft Order laid before Parliament under section 4(5) of the Civil Procedure Act 1997, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2005 No.

CROWN PROCEEDINGS

**The Civil Procedure (Modification of
Crown Proceedings Act 1947) Order 2005**

Made - - - -

Coming into force in accordance with Article 1

The Lord Chancellor, in exercise of the powers conferred on him by section 4(2) of the Civil Procedure Act 1997⁽¹⁾, hereby makes the following Order, a draft of which has, in accordance with section 4(5) of that Act, been laid before and approved by resolution of each House of Parliament:

1.—(1) This Order may be cited as the Civil Procedure (Modification of Crown Proceedings Act 1947) Order 2005, and shall come into force on the day after the day on which it is made.

(2) In this Order, “the Act” means the Crown Proceedings Act 1947⁽²⁾, and a section identified by number alone means a section of the Act.

2. The provisions of the Act listed in Schedule 1 to this Order are amended or repealed to the extent there specified.

3. Schedule 2 to this Order contains amendments consequential on those made to section 20.

4. The amendment or repeal of a provision of the Act by this Order does not affect the Act as extended to Northern Ireland by an Order in Council made under section 53⁽³⁾.

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Date

(1) 1997 c. 12.

(2) 1947 c. 44.

(3) Currently the Crown Proceedings (Northern Ireland) Order 1981, S.I. 1981/233.

SCHEDULE 1

Article 2

Crown Proceedings Act 1947

1. In section 15(2), for “county court rules” substitute “rules of court”.
2. In section 16, the words “and county court rules” are repealed.
3. Section 19 is repealed.
4. In section 20—
 - (a) subsection (1) is repealed;
 - (b) in subsection (2), the words “Without prejudice to the rights of the Crown under the preceding provisions of this section,” are repealed.
5. In section 22, for “, rules of court and county court rules” substitute “and rules of court”.
6. In section 27(2), the words from “, but with the substitution” to the end of the subsection are repealed.
7. In section 28(1), the words “and county court rules” are repealed.
8. In section 35—
 - (a) for the side-note, substitute “Rules of court”;
 - (b) in subsection (1), the words “or county court rules” are repealed;
 - (c) in subsection (2)—
 - (i) in the introductory words, the words “and county court rules” are repealed;
 - (ii) in paragraph (b), for the words from “the plaintiff shall” to “reasonably require” there are substituted the words “the claimant shall provide the Crown with information”;
 - (iii) paragraphs (c), (d) and (e) are repealed.
9. In section 38—
 - (a) in subsection (1), the words “or county court rules” are repealed;
 - (b) in subsection (2), in the definition of “Prescribed”, the words “or county court rules, as the case may be” are repealed.

SCHEDULE 2

Article 3

Consequential Amendments

1. In the Sex Discrimination Act 1975(4), in section 85(8) (Application to Crown), the words from “except that in their application” to the end of the subsection are repealed.
2. In the Race Relations Act 1976(5), in section 75(6) (Application to Crown etc), the words from “except that in their application” to the end of the subsection are repealed.
3. In the Disability Discrimination Act 1995(6), in section 64(3) (Application to Crown etc), the words from “but section 20 of that Act” to the end of the subsection are repealed.

(4) 1975 c. 65.

(5) 1976 c. 74.

(6) 1995 c. 50.

EXPLANATORY NOTE

(This note is not part of the Order)

The Crown Proceedings Act 1947 allows the Crown special privileges as to the venue of civil proceedings (section 19) and as to the transfer of civil proceedings from the county courts to the High Court (section 20). Section 35 requires rules of court to be made about the content of claim forms in civil proceedings against the Crown, and about default judgments, summary judgments and interrogatories. This Order amends the Crown Proceedings Act 1947 to enable these procedural privileges of the Crown to be revoked when a new Part 66 is added to the Civil Procedure Rules replacing RSC Order 77 (in Schedule 1 to those Rules) and CCR Order 42 (in Schedule 2).

The revocation of CCR Order 42 in Schedule 2 to the CPR will mean that there will no longer be any rules of court on Crown proceedings applying only to the county courts. The 1947 Act includes a number of specific references to “county court rules” which will therefore cease to have any meaning, and which are accordingly repealed.

The Sex Discrimination Act 1975, Race Relations Act 1976 and Disability Discrimination Act 1995 each contain a provision disapplying section 20 of the 1947 Act, so that in proceedings under those Acts the Crown already has no privileges as to the transfer of proceedings from the county courts to the High Court. The repeal of the relevant parts of section 20 requires consequential amendments to those three Acts.