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Senior Courts Act 1981

1981 CHAPTER 54

PART III

PRACTICE AND PROCEDURE

RULES OF COURT

84 Power to make rules of court.

- (1) Rules of court may be made for the purpose of regulating and prescribing the practice and procedure to be followed in the Supreme Court.
- (2) Without prejudice to the generality of subsection (1), the matters about which rules of court may be made under this section include all matters of practice and procedure in the Supreme Court which were regulated or prescribed by rules of court immediately before the commencement of this Act.
- (3) No provision of this or any other Act, or contained in any instrument made under any Act, which—
 - (a) authorises or requires the making of rules of court about any particular matter or for any particular purpose; or
 - (b) provides (in whatever words) that the power to make rules of court under this section is to include power to make rules about any particular matter or for any particular purpose,shall be taken as derogating from the generality of subsection (1).
- (4) Rules made under this section shall have effect subject to any special rules for the time being in force in relation to proceedings in the Supreme Court of any particular kind.
- (5) Special rules may, to any extent and with or without modifications, apply any rules made under this section to proceedings to which the special rules apply; and rules under this section may, to any extent and with or without modifications, apply any

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special rules to proceedings in the Supreme Court to which those special rules would not otherwise apply.

- (6) Special rules which apply any rules made under this section may apply them as amended from time to time; and rules under this section which apply any special rules may apply them as amended from time to time.
- (7) No rule which may involve an increase of expenditure out of public funds may be made under this section except with the concurrence of the Treasury, but the validity of any rule made under this section shall not be called in question in any proceedings in any court either by the court or by any party to the proceedings on the ground only that it was a rule as to the making of which the concurrence of the Treasury was necessary and that the Treasury did not concur or are not expressed to have concurred.
- (8) Rules of court under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and the ^{M1}Statutory Instruments Act 1946 shall apply to a statutory instrument containing such rules in like manner as if the rules had been made by a Minister of the Crown.
- (9) In this section “special rules” means rules applying to proceedings of any particular kind in the Supreme Court, being rules made by an authority other than the Supreme Court Rule Committee or the Crown Court Rule Committee under any provision of this or any other Act which (in whatever words) confers on that authority power to make rules in relation to proceedings of that kind in the Supreme Court.

Modifications etc. (not altering text)

C1 S. 84 extended by [Multilateral Investment Guarantee Agency Act 1988 \(c. 8, SIF 88\)](#), s. 5

Marginal Citations

M1 1946 c. 36.

85 The Supreme Court Rule Committee.

- (1) The power to make rules of court under section 84 in relation to the High Court and the civil division of the Court of Appeal shall be exercisable by the Lord Chancellor together with any four or more of the following persons, namely—
 - (a) the Lord Chief Justice,
 - (b) the Master of the Rolls,
 - (c) the President of the Family Division,
 - (d) the Vice-Chancellor,
 - (e) three other judges of the Supreme Court,
 - [^{F1}(f) two persons who have a Supreme Court qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990); and
 - (g) two 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.]
- (2) The persons mentioned in subsection (1), acting in pursuance of that subsection, shall be known as “the Supreme Court Rule Committee”.

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(3) The persons to act in pursuance of subsection (1) with the Lord Chancellor, other than those eligible to act by virtue of their office, shall be appointed by the Lord Chancellor for such time as he may think fit.

[^{F2}(4) Before appointing a person under paragraph (f) or (g) of subsection (1), the Lord Chancellor shall consult any authorised body with members who are eligible for appointment under that paragraph.]

Textual Amendments

F1 S. 85(1)(f)(g) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 36(1)(a)**

F2 S. 85(4) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 36(1)(b)**

86 The Crown Court Rule Committee.

(1) The power to make rules of court under section 84 in relation to the Crown Court and the criminal division of the Court of Appeal shall be exercisable by the Lord Chancellor together with any four or more of the following persons, namely—

- (a) the Lord Chief Justice,
- (b) two other judges of the Supreme Court,
- (c) two Circuit judges,
- (d) the register of criminal appeals,
- (e) a justice of the peace,

[^{F3}(f) two persons who have a Supreme Court qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990); and

- (g) two 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.]

(2) The persons mentioned in subsection (1), acting in pursuance of that subsection, shall be known as “the Crown Court Rule Committee”.

(3) The persons to act in pursuance of subsection (1) with the Lord Chancellor, other than those eligible to act by virtue of their office, shall be appointed by the Lord Chancellor for such time as he may think fit.

[^{F4}(4) Before appointing a person under paragraph (f) or (g) of subsection (1), the Lord Chancellor shall consult any authorised body with members who are eligible for appointment under that paragraph.]

Textual Amendments

F3 S. 86(1)(f)(g) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 36(2)(a)**

F4 S. 86(4) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 36(2)(b)**

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VALID FROM 03/04/2006

[^{F5}86A Process for making rules of court under section 84

- (1) Crown Court rules must be—
 - (a) signed by a majority of the members of the Crown Court Rule Committee, and
 - (b) submitted to the Lord Chancellor.
- (2) The Lord Chancellor may allow or disallow rules so made.
- (3) If the Lord Chancellor disallows rules, he must give the Committee written reasons for doing so.
- (4) Rules so made and allowed 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 applies as if the instrument contained rules made by a Minister of the Crown.
- (5) A statutory instrument containing Crown Court rules is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section and section 86B “Crown Court rules” means rules of court made under section 84.

Textual Amendments

F5 Ss. 86A, 86B inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 4 para. 138](#); [S.I. 2006/1014](#), [art. 2\(a\)](#), [Sch. para. 11\(p\)](#)

VALID FROM 03/04/2006

86B Rules to be made if required by Lord Chancellor

- (1) This section applies if the Lord Chancellor gives the Crown Court Rule Committee written notice that he thinks it is expedient for Crown Court rules to include provision that would achieve a purpose specified in the notice.
- (2) The Committee must make such Crown Court rules as it considers necessary to achieve the specified purpose.
- (3) Those rules must be—
 - (a) made within a reasonable period after the Lord Chancellor gives notice to the Committee;
 - (b) made in accordance with section 86A.]

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87 Particular matters for which rules of court may provide.

- (1) Rules of court may make provision for regulating the means by which particular facts may be proved, and the mode in which evidence thereof may be given, in any proceedings in the High Court or in the civil division of the Court of Appeal or on any application in connection with or at any stage of any such proceedings.
- (2) Rules of court may make provision—
 - (a) for enabling proceedings to be commenced in the High Court against the estate of a deceased person (whether by the appointment of a person to represent the estate or otherwise) where no grant of probate or administration has been made;
 - (b) for enabling proceedings purporting to have been commenced in that court against a person to be treated, if he was dead at their commencement, as having been commenced against his estate, whether or not a grant of probate or administration was made before their commencement; and
 - (c) for enabling any proceedings commenced or treated as commenced in that court against the estate of a deceased person to be maintained (whether by substitution of parties, amendment or otherwise) against a person appointed to represent the estate or, if a grant of probate or administration is or has been made, against the personal representatives.
- (3) Rules of court may amend or repeal any statutory provision relating to the practice and procedure of the Supreme Court so far as may be necessary in consequence of provision made by the rules.
- (4) Criminal Appeal Rules may require courts from which an appeal lies to the criminal division of the Court of Appeal to furnish that division with any assistance or information which it may request for the purpose of exercising its jurisdiction.
- (5) Crown Court Rules may amend or repeal any statutory provision about appeals to the Crown Court so far as it relates to the practice and procedure with respect to such appeals.

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