
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes a number of amendments to primary legislation which are consequential to sections 68 to 70 (concerning Criminal Procedure Rules) and sections 75 to 77 (concerning Family Procedure Rules) of the Courts Act 2003. This Order comes into force on 1st September 2004, but shall not affect the general operation of the enactments amended—

- (a) in so far as they relate to Criminal Procedure Rules, until the first Criminal Procedure Rules come into force, and
- (b) in so far as they relate to Family Procedure Rules, until the first Family Procedure Rules come into force.

Section 69 of the Courts Act 2003 confers power on the Criminal Procedure Rule Committee to make rules of court (to be known as “Criminal Procedure Rules”) governing the practice and procedure to be followed in the criminal courts. The criminal courts are defined in section 68 of that Act as the criminal division of the Court of Appeal and (when dealing with any criminal cause or matter) the Crown Court and magistrates' courts.

Section 75 of the Courts Act 2003 confers power on the Family Procedure Rule Committee to make rules of court (to be known as “Family Procedure Rules”) governing the practice and procedure to be followed in family proceedings in the High Court, county courts and magistrates' courts.

This Order makes consequential amendments and repeals to the rule-making powers in:

Administration of Justice (Miscellaneous Provisions) Act 1933, section 2(6)

This section provides for the indictment of offenders. Subsection (6) allows the Lord Chancellor to make rules to carry this section into effect. Following the commencement of section 69 of the Courts Act 2003, part of that power to make rules will come within the scope of Criminal Procedure Rules. This Order makes amendments transferring that part of that power to the Criminal Procedure Rule Committee.

Adoption Act 1976, section 66

This section provides for the Lord Chancellor to make procedural and incidental rules. Following the commencement of section 75 of the Courts Act 2003, part of that power to make rules will come within the scope of Family Procedure Rules. This Order makes amendments transferring that part of that power to the Family Procedure Rule Committee.

Supreme Court Act 1981, section 84

Sections 84(1) and 86(1) of the Supreme Court Act 1981 confer power on the Crown Court Rule Committee to make rules for the purpose of regulating and prescribing the practice and procedure to be followed in the Crown Court and the criminal division of the Court of Appeal.

In order to give full effect to section 69 of the Courts Act 2003, section 84(1) of the 1981 Act is amended so as to exclude, from the scope of that power, proceedings in the Crown Court relating to any criminal cause or matter.

This Order makes further minor consequential amendments and repeals.

This Order does not impose any new charges on businesses.