Status: *Point in time view as at 05/12/2005. This version of this Act contains provisions that are not valid for this point in time.*
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Civil Procedure Act 1997

1997 CHAPTER 12

An Act to amend the law about civil procedure in England and Wales; and for connected purposes. [27th February 1997]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Rules and directions[F1]

Textual Amendments

F1 S. 2A inserted (26.1.2004) by Courts Act 2003 (c. 39), **ss. 84**, 110(1); S.I. 2003/3345, **art. 2(b)(ix)**

1 Civil Procedure Rules.

(1) There are to be rules of court (to be called "Civil Procedure Rules") governing the practice and procedure to be followed in—
  (a) the civil division of the Court of Appeal,
  (b) the High Court, and
  (c) county courts.

(2) Schedule 1 (which makes further provision about the extent of the power to make Civil Procedure Rules) is to have effect.

(3) The power to make Civil Procedure Rules is to be exercised with a view to securing that the civil justice system is accessible, fair and efficient.

Status: *Point in time view as at 05/12/2005. This version of this Act contains provisions that are not valid for this point in time.*
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Modifications etc. (not altering text)

C1 S. 1: power to make rules of court extended (25.3.2002) by 1979 c. 53, **s. 5(2)** (as substituted 25.3.2002 by S.I. 2002/439, **art. 5(a)**)

[F1 2A Power to change certain requirements relating to Committee

(1) The Lord Chancellor may by order—

(a) amend section 2(2) (persons to be appointed to Committee by Lord Chancellor), and

(b) make consequential amendments in any other provision of section 2.

(2) Before making an order under this section the Lord Chancellor must consult—

(a) the Head of Civil Justice,

(b) the Deputy Head of Civil Justice (if there is one), and

(c) the Master of the Rolls (unless he holds an office mentioned in paragraph (a) or (b)).

(3) The power to make an order under this section is exercisable by statutory instrument.

(4) A statutory instrument containing such an order is subject to annulment in pursuance of a resolution of either House of Parliament.**]**

2 Rule Committee.

(1) Civil Procedure Rules are to be made by a committee known as the Civil Procedure Rule Committee, which is to consist of—

[F2(aa) the Head of Civil Justice,

(ab) the Deputy Head of Civil Justice (if there is one),

(a) the Master of the Rolls (unless he holds an office mentioned in paragraph (aa) or (ab)), and**]**

(c) the persons currently appointed by the Lord Chancellor under subsection (2).

(2) The Lord Chancellor must appoint—

[F3(a) either two or three judges of the Supreme Court,**]**

(b) one Circuit judge,

(c) one district judge,

(d) one person who is a Master referred to in Part II of Schedule 2 to the M1Supreme Court Act 1981,

(e) three persons who have a Supreme Court qualification (within the meaning of section 71 of the M2Courts and Legal Services Act 1990), including at least one with particular experience of practice in county courts,

(f) three 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, including at least one with particular experience of practice in county courts, **[**F4and

(g) two persons with experience in and knowledge of the lay advice sector or consumer affairs.**]**

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(3) Before appointing a judge of the Supreme Court under subsection (2)(a), the Lord Chancellor must consult the Lord Chief Justice.

(4) Before appointing a person under paragraph (e) or (f) of subsection (2), the Lord Chancellor must consult any body which—
  (a) has members who are eligible for appointment under that paragraph, and
  (b) is an authorised body for the purposes of section 27 or 28 of the Courts and Legal Services Act 1990.

(5) The Lord Chancellor may reimburse the members of the Civil Procedure Rule Committee their travelling and out-of-pocket expenses.

(6) The Civil Procedure Rule Committee must, before making or amending Civil Procedure Rules—
  (a) consult such persons as they consider appropriate, and
  (b) meet (unless it is inexpedient to do so).

(7) The Civil Procedure Rule Committee must, when making Civil Procedure Rules, try to make rules which are both simple and simply expressed.

(8) Rules made by the Civil Procedure Rule Committee must be signed by at least eight members of the Committee and be submitted to the Lord Chancellor, who may allow or disallow them.

Textual Amendments

F2 S. 2(1)(aa)(ab)(a) substituted (26.1.2004) for s. 2(1)(a)(b) by Courts Act 2003 (c. 39), **ss. 83(1)**, 110(1); S.I. 2003/3345, **art. 2(b)(viii)**

F3 S. 2(2)(a) substituted (26.1.2004) by Courts Act 2003 (c. 39), **ss. 83(2)**, 110(1); S.I. 2003/3345, **art. 2(b)(viii)**

F4 S. 2(2)(g) and word substituted (26.1.2004) for s. 2(2)(g)(h) and word by Courts Act 2003 (c. 39), **ss. 83(3)**, 110(1); S.I. 2003/3345, **art. 2(b)(viii)**

Marginal Citations

M1 1981 c. 54.

M2 1990 c. 41.

3 Section 2: supplementary.

(1) Rules made and allowed under section 2 are to—
  (a) come into force on such day as the Lord Chancellor may direct, and
  (b) be contained in a statutory instrument to which the [M3]Statutory Instruments Act 1946 is to apply as if it contained rules made by a Minister of the Crown.

(2) A statutory instrument containing Civil Procedure Rules shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Modifications etc. (not altering text)

C2 S. 3(2) excluded (11.3.2005) by Prevention of Terrorism Act 2005 (c. 2), s. 11(5), **Sch. para. 3(7)(a)**

C3 S. 3(2) excluded until Courts Act 2003 (c. 39), **s. 85** comes into force, whereupon s. 3(6) excluded (27.11.2008) by Counter-Terrorism Act 2008 (c. 28), **ss. 72(6)**, 100(2) (with s. 101(2))

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C4 S. 3(2) excluded until Courts Act 2003 (c. 39), **s. 85** comes into force, whereupon s. 3(6) excluded (17.12.2010) by Terrorist Asset-Freezing etc. Act 2010 (c. 38), **ss. 29(9)(a)(11)**, 55(1)

C5 S. 3(2) excluded until Courts Act 2003 (c. 39), **s. 85** comes into force, whereupon s. 3(6) excluded (15.12.2011) by Terrorism Prevention and Investigation Measures Act 2011 (c. 23), s. 31(2), **Sch. 4 para. 7(8)(a)(9)** (with Sch. 8)

C6 S. 3(2) excluded until Courts Act 2003 (c. 39), **s. 85** comes into force, whereupon s. 3(6) excluded (25.6.2013) by Justice and Security Act 2013 (c. 18), s. 20(1), **Sch. 3 para. 3(9)(a)(10)**; S.I. 2013/1482, **art. 2** (with arts. 3, 4)

C7 S. 3(2) excluded until Courts Act 2003 (c. 39), **s. 85** comes into force, whereupon s. 3(6) excluded (12.2.2015) by Counter-Terrorism and Security Act 2015 (c. 6), s. 52(5), **Sch. 3 para. 7(8)(a)(9)** (with Sch. 3 para. 11)

Marginal Citations

M3 1946 c. 36.

VALID FROM 03/04/2006

[F5 3A Rules to be made if required by Lord Chancellor

(1) This section applies if the Lord Chancellor gives the Civil Procedure Rules Committee written notice that he thinks it is expedient for Civil Procedure Rules to include provision that would achieve a purpose specified in the notice.

(2) The Committee must make such 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 3.**]**

Textual Amendments

F5 S. 3A inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148(1), **Sch. 4 para. 266**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(v)

4 Power to make consequential amendments.

(1) The Lord Chancellor may by order amend, repeal or revoke any enactment to the extent he considers necessary or desirable in consequence of—

(a) section 1 or 2, or

(b) Civil Procedure Rules.

(2) The Lord Chancellor may by order amend, repeal or revoke any enactment passed or made before the commencement of this section to the extent he considers necessary or desirable in order to facilitate the making of Civil Procedure Rules.

(3) Any power to make an order under this section is exercisable by statutory instrument.

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(4) A statutory instrument containing an order under subsection (1) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) No order may be made under subsection (2) unless a draft of it has been laid before and approved by resolution of each House of Parliament.

5 Practice directions.

(1) Practice directions may provide for any matter which, by virtue of paragraph 3 of Schedule 1, may be provided for by Civil Procedure Rules.

(2) After section 74 of the [M4]County Courts Act 1984 there is inserted—

" Practice directions

74A Practice directions.

(1) Directions as to the practice and procedure of county courts may be made by the Lord Chancellor.

(2) Directions as to the practice and procedure of county courts may not be made by any other person without the approval of the Lord Chancellor.

(3) The power of the Lord Chancellor to make directions under subsection (1) includes power—
   (a) to vary or revoke directions made by him or any other person, and
   (b) to make different provision for different cases or different areas, including different provision—
      (i) for a specific court, or
      (ii) for specific proceedings, or a specific jurisdiction,
   specified in the directions.

(4) References in this section to the Lord Chancellor include any person authorised by him to act on his behalf."

Marginal Citations
M4 1984 c.28.

Civil Justice Council

6 Civil Justice Council.

(1) The Lord Chancellor is to establish and maintain an advisory body, to be known as the Civil Justice Council.

(2) The Council must include—
   (a) members of the judiciary,
   (b) members of the legal professions,
   (c) civil servants concerned with the administration of the courts,

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(d) persons with experience in and knowledge of consumer affairs,

(e) persons with experience in and knowledge of the lay advice sector, and

(f) persons able to represent the interests of particular kinds of litigants (for example, businesses or employees).

(3) The functions of the Council are to include—

(a) keeping the civil justice system under review,

(b) considering how to make the civil justice system more accessible, fair and efficient,

(c) advising the Lord Chancellor and the judiciary on the development of the civil justice system,

(d) referring proposals for changes in the civil justice system to the Lord Chancellor and the Civil Procedure Rule Committee, and

(e) making proposals for research.

(4) The Lord Chancellor may reimburse the members of the Council their travelling and out-of-pocket expenses.

Court orders

7 Power of courts to make orders for preserving evidence, etc.

(1) The court may make an order under this section for the purpose of securing, in the case of any existing or proposed proceedings in the court—

(a) the preservation of evidence which is or may be relevant, or

(b) the preservation of property which is or may be the subject-matter of the proceedings or as to which any question arises or may arise in the proceedings.

(2) A person who is, or appears to the court likely to be, a party to proceedings in the court may make an application for such an order.

(3) Such an order may direct any person to permit any person described in the order, or secure that any person so described is permitted—

(a) to enter premises in England and Wales, and

(b) while on the premises, to take in accordance with the terms of the order any of the following steps.

(4) Those steps are—

(a) to carry out a search for or inspection of anything described in the order, and

(b) to make or obtain a copy, photograph, sample or other record of anything so described.

(5) The order may also direct the person concerned—

(a) to provide any person described in the order, or secure that any person so described is provided, with any information or article described in the order, and

(b) to allow any person described in the order, or secure that any person so described is allowed, to retain for safe keeping anything described in the order.

(6) An order under this section is to have effect subject to such conditions as are specified in the order.

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(7) This section does not affect any right of a person to refuse to do anything on the ground that to do so might tend to expose him or his spouse **[**[F6]or civil partner**]** to proceedings for an offence or for the recovery of a penalty.

(8) In this section—

"court" means the High Court, and

"premises" includes any vehicle;

and an order under this section may describe anything generally, whether by reference to a class or otherwise.

Textual Amendments

F6 Words in s. 7(7) inserted (5.12.2005) by Civil Partnership Act 2004 (c.12), ss. 261(1), 263(10)(b), **Sch 27 para. 154**; S.I. 2005/3175, **art. 2(2)**

8 Disclosure etc. of documents before action begun.

(1) The Lord Chancellor may by order amend the provisions of section 33(2) of the [M5]Supreme Court Act 1981, or section 52(2) of the [M6]County Courts Act 1984 (power of court to order disclosure etc. of documents where claim may be made in respect of personal injury or death), so as to extend the provisions—

(a) to circumstances where other claims may be made, or

(b) generally.

(2) The power to make an order under this section is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Marginal Citations

M5 1981 c. 54.

M6 1984 c. 28.

General

9 Interpretation.

(1) A court the practice and procedure of which is governed by Civil Procedure Rules is referred to in this Act as being "within the scope" of the rules; and references to a court outside the scope of the rules are to be read accordingly.

(2) In this Act—

"enactment" includes an enactment contained in subordinate legislation (within the meaning of the [M7]Interpretation Act 1978), and

"practice directions" means directions as to the practice and procedure of any court within the scope of Civil Procedure Rules.

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Marginal Citations

M7 1978 c. 30.

10 Minor and consequential amendments.

Schedule 2 (which makes minor and consequential amendments) is to have effect.

Commencement Information

I1 S. 10 wholly in force at 26.4.1999; s. 10 not in force at Royal Assent see s. 11(2); s. 10 in force at 14.3.1997 and 27.4.1997 for specified purposes by S.I. 1997/841, **arts. 2**, 3, 4 and otherwise in force at 26.4.1999 by S.I. 1999/1009, **art. 3**

11 Short title, commencement and extent.

(1) This Act may be cited as the Civil Procedure Act 1997.

(2) Sections 1 to 10 are to come into force on such day as the Lord Chancellor may by order made by statutory instrument appoint, and different days may be appointed for different purposes.

(3) This Act extends to England and Wales only.

Subordinate Legislation Made

P1 S. 11(2) power partly exercised (14.3.1997): 14.3.1997 and 27.4.1997 appointed for specified provisions by S.I. 1997/841, **art. 3**
S. 11(2) power partly exercised (25.3.1997): 26.4.1999 appointed for specified provisions by S.I. 1999/1009, **art. 3**

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SCHEDULES

SCHEDULE 1

Section 1.

CIVIL PROCEDURE RULES

Modifications etc. (not altering text)

C8 Sch. 1: power to make rules of court extended (25.3.2002) by 1979 c. 53, **s. 5(2)** (as substituted 25.3.2002 by S.I. 2002/439, **art. 5(a)**)

Matters dealt with by the former rules

1 Among the matters which Civil Procedure Rules may be made about are any matters which were governed by the former Rules of the Supreme Court or the former county court rules (that is, the [M8]Rules of the Supreme Court (Revision) 1965 and the [M9]County Court Rules 1981).

Marginal Citations

M8 S.I. 1965/1776.
M9 S.I. 1981/1687.

Exercise of jurisdiction

2 Civil Procedure Rules may provide for the exercise of the jurisdiction of any court within the scope of the rules by officers or other staff of the court.

Removal of proceedings

3 (1) Civil Procedure Rules may provide for the removal of proceedings at any stage—
(a) within the High Court (for example, between different divisions or different district registries), or
(b) between county courts.

(2) In sub-paragraph (1)—
(a) "provide for the removal of proceedings" means—
(i) provide for transfer of proceedings, or
(ii) provide for any jurisdiction in any proceedings to be exercised (whether concurrently or not) elsewhere within the High Court or, as the case may be, by another county court without the proceedings being transferred, and
(b) "proceedings" includes any part of proceedings.

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Evidence

4 Civil Procedure Rules may modify the rules of evidence as they apply to proceedings in any court within the scope of the rules.

Application of other rules

5 (1) Civil Procedure Rules may apply any rules of court which relate to a court which is outside the scope of Civil Procedure Rules.

(2) Any rules of court, not made by the Civil Procedure Rule Committee, which apply to proceedings of a particular kind in a court within the scope of Civil Procedure Rules may be applied by Civil Procedure Rules to other proceedings in such a court.

(3) In this paragraph "rules of court" includes any provision governing the practice and procedure of a court which is made by or under an enactment.

(4) Where Civil 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.

Practice directions

6 Civil Procedure Rules may, instead of providing for any matter, refer to provision made or to be made about that matter by directions.

Different provision for different cases etc.

7 The power to make Civil Procedure Rules includes power to make different provision for different cases or different areas, including different provision—

(a) for a specific court or specific division of a court, or

(b) for specific proceedings, or a specific jurisdiction,

specified in the rules.

SCHEDULE 2

Section 10.

MINOR AND CONSEQUENTIAL AMENDMENTS

Supreme Court Act 1981 (c. 54)

1 (1) The Supreme Court Act 1981 is amended as follows.

[F7](2) . . . . . .

(3) In section 68 (exercise of High Court jurisdiction otherwise than by judges)—

(a) in subsection (1), paragraph (c) and the word "or" immediately preceding it are omitted,

(b) in subsection (2)—

(i) paragraph (a) is omitted, and

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(ii) in paragraph (b), for "any such person" there is substituted " a special referee ",

(c) in subsection (3), for the words from "any" onwards there is substituted " a special referee or any officer or other staff of the court ", and

(d) in subsection (4)—

(i) after "decision of" there is inserted " (a) ", and

(ii) after "subsection (1)" there is inserted—

"or

(b) any officer or other staff of the court".

(4) In section 84 (power to make rules of court)—

(a) in subsection (1), for "Supreme Court" there is substituted " Crown Court and the criminal division of the Court of Appeal ",

(b) subsection (4) is omitted,

(c) for subsections (5) and (6) there is substituted—

"(5) Special rules may apply—

(a) any rules made under this section, or

(b) Civil Procedure Rules,

to proceedings to which the special rules apply.

(5A) Rules made under this section may apply—

(a) any special rules, or

(b) Civil Procedure Rules,

to proceedings to which rules made under this section apply.

(6) Where rules may be applied under subsection (5) or (5A), they may be applied—

(a) to any extent,

(b) with or without modification, and

(c) as amended from time to time.", and

(d) in subsection (9), for "Supreme Court Rule Committee" there is substituted " Civil Procedure Rule Committee ".

(5) Section 85 (Supreme Court Rule Committee) is omitted.

(6) In section 87 (particular matters for which rules of court may provide)—

(a) subsections (1) and (2) are omitted, and

(b) in subsection (3), for "Supreme Court" there is substituted " Crown Court or the criminal division of the Court of Appeal ".

(7) In section 151 (interpretation)—

(a) in subsection (3), after the second "rules of court" there is inserted " in relation to the Supreme Court " and for "Supreme Court Rule Committee" there is substituted " Civil Procedure Rule Committee ", and

(b) in subsection (4), the definition of "Rules of the Supreme Court" is omitted.

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Textual Amendments

F7 Sch. 2 para. 1(2) repealed (27.9.1999) by 1999 c.22, ss. 106, 108(3)(f), **Sch. 15 Pt. III** (with Sch. 14 paras. 7(2), 36(9))

Commencement Information

I2 Sch. 2 para. 1 wholly in force at 26.4.1999; Sch. 2 para. 1 not in force at Royal Assent see s. 11(2); Sch. 2 para. 1(1)(2)(4)(c) in force at 27.4.1997 by S.I. 1997/841, **arts. 3**, 4; Sch. 2 para. 1(3)(4)(a)(b)(d)(5)-(7) in force at 26.4.1999 by S.I. 1999/1009, **art. 3(a)-(e)**

County Courts Act 1984 (c. 28)

2 (1) The County Courts Act 1984 is amended as follows.

(2) For "county court rules", wherever occurring, there is substituted " rules of court ".

(3) For "rule committee", wherever occurring, there is substituted " Civil Procedure Rule Committee ".

(4) In section 1 (county courts to be held for districts), in subsection (1), for the words from "throughout" to "the district" there is substituted " each court ".

(5) In section 3 (places and times of sittings of courts), subsection (3) is omitted.

(6) Section 75 (county court rules) is omitted.

(7) In section 77(1), for "the rules of the Supreme Court" there is substituted " Civil Procedure Rules ".

(8) In section 81(2), for "any rules of the Supreme Court" there is substituted " Civil Procedure Rules ".

(9) In section 147(1), the definitions of "county court rules" and "the rule committee" are omitted.

Commencement Information

I3 Sch. 2 para. 2 wholly in force at 26.4.1999; Sch. 2 para. 2 not in force at Royal Assent see s. 11(2); Sch. 2 para. 2(1)(2)(4)(5) in force at 27.4.1997 by S.I. 1997/841, **arts. 3**, 4; Sch. 2 para. 2(3)(6)-(9) in force at 26.4.1999 by S.I. 1999/1009, **art. 3(f)-(j)**

Matrimonial and Family Proceedings Act 1984 (c. 42)

3 In section 40 of the Matrimonial and Family Proceedings Act 1984 (family proceedings rules)—

(a) after subsection (3) there is inserted—

"(3A) Rules made under this section may make different provision for different cases or different areas, including different provision—

(a) for a specific court, or

(b) for specific proceedings, or a specific jurisdiction,

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specified in the rules.”,

and

(b) in subsection (4), the words from the first “in” to “and may” are omitted.

Commencement Information

I4 Sch. 2 para. 3 not in force at Royal Assent see s. 11(2); Sch. 2 para. 3(a) in force at 14.3.1997 by S.I. 1997/841, **art. 2**; by S.I. 1999/1009, **art. 3(k)** it is provided that Sch. 2 "paragraph 4(b) (amendment of section 40 of the Matrimonial and Family Proceedings Act 1984)" shall come into force at 26.4.1999

Courts and Legal Services Act 1990 (c. 41)

4 In section 120 of the Courts and Legal Services Act 1990 (regulations and orders), in subsection (4), “1(1)” is omitted.

Status:
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Changes to legislation:
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