



# 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 [<sup>F1</sup>, except in relation to any criminal cause or matter,] the practice and procedure to be followed in the [<sup>F2</sup>Crown Court <sup>F3</sup> . . . ].
- (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).
- [<sup>F4</sup>(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.]
- [<sup>F5</sup>(5) Special rules may apply—
  - (a) any rules made under this section, <sup>F6</sup> . . .

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- (b) Civil Procedure Rules,  
to proceedings to which the special rules apply.  
[ Criminal Procedure Rules, or  
F7(c)  
(d) Family Procedure Rules,]
- (5A) Rules made under this section may apply—  
(a) any special rules,<sup>F6</sup> . . .  
(b) Civil Procedure Rules,  
to proceedings to which rules made under this section apply.  
[ Criminal Procedure Rules, or  
F7(c)  
(d) Family Procedure Rules,]
- (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.]
- (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) <sup>F8</sup> . . . . .
- (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 [<sup>F9</sup>Civil Procedure Rule Committee]<sup>F10</sup>, the Family Procedure Rule Committee, the Criminal Procedure 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.

#### Textual Amendments

- F1** Words in s. 84(1) inserted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 15(2)(a)** (with art. 2(2))
- F2** Words in s. 84(1) substituted (26.4.1999) by 1997 c. 12, s. 10, **Sch. 2 para. 1(4)(a)**; S.I. 1999/1009, **art. 3(b)**
- F3** Words in s. 84(1) omitted (1.9.2004) by virtue of The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 15(2)(b)** (with art. 2(2))
- F4** S. 84(4) omitted (26.4.1999) by virtue of 1997 c. 12, s. 10, **Sch. 2 para. 1(4)(b)**; S.I. 1999/1009, **art. 3(b)**
- F5** S. 84(5)(5A)(6) substituted (27.4.1997) for s. 84(5)(6) by 1997 c. 12, ss. 10, 11(2), **Sch. 2 para. 1(4)(c)**; S.I. 1997/841, **arts. 3(b), 4(b)**
- F6** Word in s. 84(5)(5A) omitted (1.9.2004) by virtue of The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 15(3)(a)** (with art. 2(2))
- F7** S. 84(5)(c)(d)(5A)(c)(d) inserted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 15(3)(b)** (with art. 2(2))

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- F8** S. 84(8) repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 146, 148, Sch. 4 para. 136, **Sch. 18 Pt. 2**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 10, 11(p), 29, 30(b)
- F9** Words in s. 84 substituted (26.4.1999) by 1997 c. 12, s. 10, **Sch. 2 para. 1(4)(d)**; S.I. 1999/1009, **art. 3(b)**
- F10** Words in s. 84(9) inserted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 15(4)** (with art. 2(2))

**Modifications etc. (not altering text)**

- C1** S. 84 extended by Multilateral Investment Guarantee Agency Act 1988 (c. 8, SIF 88), **s. 5**
- C2** S. 84 extended (1. 10. 1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 20(5)(a), 101(1), **Sch. 12**, para. 6; S.I. 1992/333, art. 2(2), **Sch. 2**.  
S. 84 extended (4.7.1996 but with effect as mentioned in s. 1 (3)(5)) by 1996 c. 25, **s. 19(1)** (with s. 78(1)); S.I. 1997/682.

**<sup>F11</sup>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,
  - [<sup>F12</sup>(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”.
- (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.
- [<sup>F13</sup>(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**

- F11** S. 85 omitted (26.4.1999) by virtue of 1997 c. 12, s. 10, **Sch. 2 para. 1(5)**; S.I. 1999/1009, **art. 3(c)**
- F12** 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)**
- F13** S. 85(4) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 36(1)(b)**

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## 86 The Crown Court Rule Committee.

- (1) The power to make rules of court under section 84<sup>F14</sup> . . . shall be exercisable [<sup>F15</sup>by a committee known as the Crown Court Rule Committee, which is to consist of the following persons—]
- (a) the Lord Chief Justice,
  - (b) two other judges of the Supreme Court,
  - (c) two Circuit judges,
  - (d)<sup>F16</sup> . . . . .
  - (e) a justice of the peace,
  - [<sup>F17</sup>(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.]
- [<sup>F18</sup>(2) The members of the Crown Court Rule Committee, other than those eligible to act by virtue of their office, are appointed under subsection (3) or (4).
- (3) The Lord Chief Justice must appoint the persons referred to in paragraphs (b), (c) and (e) of subsection (1), after consulting the Lord Chancellor.
- (4) The Lord Chancellor must appoint the persons referred to in paragraphs (f) and (g) of subsection (1), after consulting the following—
- (a) the Lord Chief Justice;
  - (b) any authorised body with members who are eligible for appointment under the relevant paragraph.
- (5) A person is to be appointed under subsection (3) or (4) for such period as the Lord Chancellor determines after consulting the Lord Chief Justice.
- (6) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.]

### Textual Amendments

- F14** Words in s. 86(1) omitted (1.9.2004) by virtue of [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 3, **Sch. para. 16(a)** (with art. 2(2))
- F15** Words in s. 86(1) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, **Sch. 4 para. 137(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. paras. 10, 11(p)
- F16** S. 86(1)(d) omitted (1.9.2004) by virtue of [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 3, **Sch. para. 16(b)** (with art. 2(2))
- F17** 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)**
- F18** S. 86(2)-(6) substituted (3.4.2006) for s. 86(2)-(4) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, **Sch. 4 para. 137(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. paras. 10, 11(p)

### [<sup>F19</sup>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

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- (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

**F19** 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\(p\)](#)

### **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.]

#### Textual Amendments

**F19** 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\(p\)](#)

### **87 Particular matters for which rules of court may provide.**

- [<sup>F20</sup>(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—

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- (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 [F21made under section 84] may amend or repeal any statutory provision relating to the practice and procedure of the [F22Crown Court [F23(except so far as relating to criminal causes or matters)]] so far as may be necessary in consequence of provision made by the rules.
- (4) [F24Criminal Procedure 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) [F25Rules of court made under section 84] 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 [F26(except so far as relating to criminal causes or matters)].

#### Textual Amendments

- F20** S. 87(1)(2) omitted (26.4.1999) by virtue of 1997 c. 12, s. 10, **Sch. 2 para. 1(6)(a)**; S.I. 1999/1009, **art. 3(d)**
- F21** Words in s. 87(3) inserted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 17(2)(a)** (with art. 2(2))
- F22** Words in s. 87(3) substituted (26.4.1999) by 1997 c. 12, s. 10, **Sch. 2 para. 1(6)(b)**; S.I. 1999/1009, **art. 3(d)**
- F23** Words in s. 87(3) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 17(2)(b)** (with art. 2(2))
- F24** Words in s. 87(4) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 17(3)** (with art. 2(2))
- F25** Words in s. 87(5) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 17(4)(a)** (with art. 2(2))
- F26** Words in s. 87(5) inserted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 17(4)(b)** (with art. 2(2))

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