

Courts and Tribunals (Online Procedure) Bill [HL]

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

[Amendments marked ★ are new or have been altered]

Amendment
No.

Clause 1

LORD PONSONBY OF SHULBREDE

- 1★ Page 1, line 9, leave out “or require”
- 2★ Page 1, line 14, at end insert—
“() Civil Procedure Rules, Family Procedure Rules, Tribunal Procedure Rules, employment tribunal procedure regulations and EAT procedure rules must determine for the relevant jurisdiction which proceedings can be governed by the Online Procedure Rules Committee.”

LORD MARKS OF HENLEY-ON-THAMES
LORD BEITH
LORD JUDGE

- 3★ Page 1, line 22, at end insert—
“() that forms and other documents required by Online Procedure Rules may be filed by electronic means or on paper or a combination of both at the choice of the party filing them.”

LORD BEITH
LORD MARKS OF HENLEY-ON-THAMES

- 4★ Page 1, line 22, at end insert—
“() that Online Procedure Rules shall not apply in any proceedings where both parties agree in writing that they shall not apply to those proceedings.”

Clause 1 - continued

LORD MARKS OF HENLEY-ON-THAMES

LORD BEITH

LORD PANNICK

LORD JUDGE

5★ Page 1, line 22, at end insert –

“() Online Procedure Rules must provide that a party or potential party to proceedings governed or to be governed by Online Procedure Rules is entitled to assistance, to be known as “Designated Assistance”, with the conduct or progress of such proceedings, to be made available in accordance with section (*Designated Assistance*).”

LORD PONSONBY OF SHULBREDE

6★ Page 2, line 15, at end insert –

“() Rules must ensure that judicial discretion over deciding whether a full court hearing is necessary in an individual case is retained.”

Clause 2

LORD BEECHAM

7 Page 3, line 10, at end insert –

“() “Specified kinds” of proceedings for the purposes of section 1 exclude –
 (a) any possession claims for homes, and
 (b) criminal justice proceedings.”

LORD PONSONBY OF SHULBREDE

8★ Page 3, line 17, at end insert –

“() whether cases in the family jurisdiction are contested, or involve children or litigants in person.”

LORD JUDGE

LORD PANNICK

LORD BEITH

9 Page 3, line 17, at end insert –

“() Regulations may only be made under this section with the concurrence of the Lord Chief Justice.”

Clause 3

LORD BEECHAM

10 Page 3, line 22, after second “proceedings,” insert “or the respondent,”

Clause 3 - continued

11 Page 3, line 25, at end insert—

“() In the event of a disagreement between the person initiating proceedings and the respondent, the court or tribunal in which the proceeding would normally be heard must decide the appropriate rules to be followed.”

LORD JUDGE
LORD PANNICK
LORD BEITH

12 Page 3, line 44, at end insert—

“() Regulations may only be made under this section with the concurrence of the Lord Chief Justice.”

After Clause 3

LORD MARKS OF HENLEY-ON-THAMES
LORD BEITH
LORD PANNICK
LORD JUDGE

13★ Insert the following new Clause—

“Designated Assistance

- (1) It shall be the duty of the appropriate Minister to make available to parties or potential parties to proceedings governed or to be governed by Online Procedure Rules Designated Assistance with the conduct or progress of the proceedings.
- (2) Designated Assistance may be provided—
 - (a) directly by the appropriate Minister through HM Courts and Tribunals Service;
 - (b) by persons engaged by the appropriate Minister under a contract entered into for that purpose; or
 - (c) by voluntary organisations approved by the appropriate Minister for that purpose under arrangements agreed by the appropriate Minister with such voluntary organisations.
- (3) Designated Assistance, where sought by a party or potential party to proceedings governed by Online Procedure Rules, must include such assistance as the appropriate Minister considers sufficient to enable such party or potential party to have a reasonable understanding of the nature of the proceedings and of the procedure applicable under Online Procedure Rules and of how to access such procedure.
- (4) Designated Assistance shall be provided by advice by telephone or by electronic means or in person or conveyed by such other means as the appropriate Minister deems reasonable—
 - (a) regarding the completion of online forms;
 - (b) as to the kinds of evidence that may be necessary to support a party’s or a potential party’s claim or defence;

After Clause 3 - continued

- (c) as to the requirements and meaning of the applicable Online Procedure Rules.
- (5) Designated Assistance must include, for a party or potential party whose first language is not English, assistance, by interpretation or translation as appropriate, in a language that is familiar to the party or potential party.”

LORD MACKAY OF CLASHFERN

14★ Insert the following new Clause –

“Duty to protect members of the public from fraudulent websites

The Lord Chancellor must, within six months of the passing of this Act–

- (a) carry out a consultation on how persons who seek recourse using the Online Procedure can be protected from fraudulent websites claiming to offer access to the Online Procedure,
- (b) lay before both Houses of Parliament a report of the findings from that consultation, and
- (c) take appropriate steps to put adequate protection in place.”

Clause 4

LORD BEECHAM

15 Page 4, line 16, leave out paragraph (c) and insert –

- “(c) one of each of the following –
- (i) a barrister in England and Wales, and
- (ii) a solicitor of the Senior Courts of England and Wales, and
- (iii) a legal executive, and
- (iv) a magistrate of England and Wales
- appointed to the Committee by the Lord Chancellor.”

16 Page 4, line 19, leave out “two” and insert “three”

17 Page 4, line 23, leave out “one” and insert “two”

18 Page 4, line 24, at end insert –

- “() The Lord Chancellor must ensure that gender balance is reflected on the Online Procedure Rule Committee.”

Clause 6

LORD BEECHAM

19 Page 7, line 17, leave out “negative” and insert “affirmative”

Clause 7

LORD PONSONBY OF SHULBREDE

20★ Page 7, line 24, leave out “at least three” and insert “a majority of”

Clause 7 - continued

LORD BEECHAM

- 21 Page 7, line 24, leave out “three” and insert “five”
- 22 Page 7, line 30, at end insert—
“(za) must be piloted by the Government in a period determined by the Online Procedure Rule Committee before they may be fully and permanently implemented,”
- 23 Page 7, line 31, after “directs” insert—
“(i) in so far as necessary for the purposes of the pilot under paragraph (za), and
(ii) fully following the conclusion of the pilot,”
- 24 Page 7, line 34, at end insert—
“() The appropriate Minister must publish a written statement on the progress and findings of each pilot scheme under subsection (5)(za) every six months.”
- 25 Page 7, leave out line 36 and insert “affirmative resolution procedure.”

Clause 8

LORD BEECHAM

- 26 Page 8, line 1, leave out from “Committee” to end of line 2 and insert “may—
(a) make such Online Procedure Rules as it considers necessary to achieve the specified purpose; or
(b) decline, with written notice, the appropriate Minister’s request to create Online Procedure Rules to achieve a purpose specified if deemed inappropriate or unnecessary by the Committee.”
- 27 Page 8, line 4, leave out paragraph (a)

LORD JUDGE
LORD PANNICK
LORD BEITH

- 28 Page 8, line 6, at end insert—
“() The appropriate Minister may only give written notice under this section with the concurrence of the Lord Chief Justice.”

Clause 9

LORD JUDGE
LORD PANNICK
LORD BEITH

- 29 Page 8, line 18, at end insert –
“() Regulations may only be made under this section with the concurrence of the Lord Chief Justice.”
- 30 Page 8, line 19, leave out “the Lord Chief Justice and”

After Clause 9

LORD MARKS OF HENLEY-ON-THAMES
LORD BEITH
LORD PANNICK
LORD JUDGE

- 31★ Insert the following new Clause –
“Review
- (1) The appropriate Minister shall carry out a review of the operation of this Act and shall provide a report to Parliament thereon not less than three nor more than four years from the day on which this Act is passed.
 - (2) In carrying out the review and in preparing the report, the appropriate Minister shall consult the Lord Chief Justice and the Senior President of Tribunals and shall invite the Lord Chief Justice and the Senior President of Tribunals to add any independent contributions to the report should they wish to do so.”

Clause 13

LORD MARKS OF HENLEY-ON-THAMES
LORD BEITH
LORD PANNICK
LORD JUDGE

- 32★ Page 10, line 27, at end insert –
“() carrying out a review of the operation of this Act or providing a report to Parliament thereon (see section (*Review*)).”
- 33★ Page 10, line 38, at end insert –
“() Where the relevant function is carrying out a review of the operation of this Act or providing a report to Parliament thereon, the relevant function is exercisable by the Lord Chancellor and the Secretary of State acting jointly.”

Schedule 2

LORD KEEN OF ELIE

- 34 Page 18, line 41, leave out paragraph 5

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6 June 2019
