

**EXPLANATORY MEMORANDUM TO
THE CIVIL PROCEDURE (AMENDMENT No. 4) RULES 2011**

2011 No. 3103 (L. 23)

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

- 2.1 This instrument amends the Civil Procedure Rules (S.I. 1998/3132) (the “CPR”). The CPR are rules of court, which govern practice and procedure in the Civil Division of the Court of Appeal, the High Court and county courts

- 2.2 The amendments to the CPR covered by this instrument relate to Government initiatives.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 None.

4. **Legislative Context**

- 4.1 The Civil Procedure Act 1997 created the Civil Procedure Rule Committee (“the Committee”) and gave it power to create civil procedure rules. The first CPR were made as the Civil Procedure Rules (1998). The intention of the CPR was to create a single procedural code for matters in the Civil Division of the Court of Appeal, the High Court and county courts, replacing the old County Court Rules (CCR) and Rules of the Supreme Court (RSC).¹ The CPR had a number of policy objectives, two of the more prominent being to improve access to justice through transparent straightforward procedures and reduce, or at least control, the cost of civil litigation in England and Wales. The changes were made, and continue to be made, in response to the report ‘Access to Justice’ (1996) by Lord Woolf.

5. **Territorial Extent and Application**

- 5.1 This instrument applies to England and Wales.

¹ This work is ongoing: the few remaining CCR and RSC are included in two ‘schedules’ to the CPR.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 This instrument amends the CPR as follows.

(a) Amendments are made to allow for the centralisation of the issue of money claims and further administrative functions up to, but not including, the hearing stage. Money claims will be processed at the County Court Money Claim Centre in Salford and issued in the name of Northampton County Court. The Centre will also handle requests for judgment, defences and allocation questionnaires. Cases will be transferred out to the appropriate county court if judicial intervention is required and, if and when a hearing is required. Centralisation of these administrative functions will give effect to the Government's commitment to provide an efficient and effective justice system, whilst reducing delays in the hearing and determination of cases; eliminating duplication currently taking place in back offices of individual county courts; removal of some aspects of money handling from courts; and, providing opportunities for the rationalisation of the Her Majesty's Courts and Tribunals Service estate.

(b) Amendments are made to remove the need for the court to serve an allocation questionnaire on all parties on the filing of a defence in court. (An allocation questionnaire is completed by the parties once a defence has been filed and provides the court with the information it requires to enable it to assess how complicated and important the claim is likely to be.) Many litigation firms have their own supply of the forms or produce them electronically from in-house computer systems and as a consequence, the forms currently being sent out by the courts to these firms are being wasted. However, to safeguard parties the allocation questionnaire will still be sent to any unrepresented party.

8. Consultation outcome

8.1 The Civil Procedure Rule Committee must, before making Civil Procedure Rules, consult such persons as they consider appropriate (section 2(6)(a) of the Civil Procedure Act 1997). Where the Committee initiates amendments then consultation is undertaken where deemed necessary.

8.2 A formal consultation exercise was not thought necessary prior to the implementation of the policy initiatives described here. However the Ministry of Justice and Her Majesty's Courts and Tribunal Service has held discussions with members of the judiciary and key stakeholders such as, the Association of British Lawyers; the County Court Users Association; the Institute of Legal Executives; the General Council of the Bar; and, the Association of Personal Injury Lawyers. The Ministry has continued discussions during the planning of the implementation and has sought their views on implementation options, and is continuing that dialogue with other interested parties.

9. Guidance

9.1 A preview summarising the forthcoming changes will be published on the Ministry of Justice website in January 2012 at <http://www.justice.gov.uk/guidance/courts-and-tribunals/courts/procedure-rules/civil/index.htm>. The Ministry of Justice will also write to key stakeholders detailing the changes in January 2012.

9.2 The rules will be published by the Stationery Office and will be available on the Ministry of Justice website when the majority come into force in March 2012.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 The impact on the public sector is negligible.

10.3 An Impact Assessment has not been prepared for this instrument which gives effect to a variety of changes from different sources.

11. Regulating small business

11.1 The legislation applies to small businesses.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is to provide a summary of the changes up to three months in advance by writing to key stakeholders and through the CPR website.

12. Monitoring & review

12.1 These rules will form part of the Civil Procedure Rules 1998 that are kept under review by the Civil Procedure Rule Committee. The Civil Procedure Rule Committee will make any subsequent amendments to these rules.

13. Contact

Jane Wright at the Ministry of Justice (tel: 020 3334 3184 or email: jane.wright@justice.gsi.gov.uk) can answer any queries regarding the instrument.