

EXPLANATORY MEMORANDUM TO
THE CIVIL PROCEDURE (AMENDMENT No. 7) RULES 2014

2014 No. 2948 (L. 32)

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

2. Purpose of the instrument

2.1 This instrument amends the Civil Procedure Rules 1998 (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 the County Court.

2.2 The amendments to the CPR covered by this instrument give effect to changes resulting from the adoption of the recast of the Brussels I Regulation, which deals with cross-border jurisdiction, recognition and enforcement of judgments in civil and commercial matters.

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

3.1 There are no matters of special interest to the Committee.

4. Legislative Context

4.1 The Civil Procedure Act 1997 established the CPR Committee and gave it power to make Civil Procedure Rules. The first CPR were made in 1998. The intention behind the CPR was to create a single procedural code for matters in the Civil Division of the Court of Appeal, the High Court and the County Court, 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.

6. European Convention on Human Rights

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

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

7. Policy background

7.1 These amendments are made to ensure that the provisions of the CPR governing procedure in relation to the recognition and enforcement of judgments as between courts in England and Wales and courts in other EU Member States are consistent with the provisions of Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) (“the recast Judgments Regulation”). The recast Judgments Regulation, which comes into force on 10th January 2015, replaces Council Regulation (EC) No. 44/2001 of 22 December 2000) on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (“the original Judgments Regulation”). The Regulations can be seen at:

<http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32012R1215> (2012)

and

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2001R0044:20100514:EN:PDF> (2000).

7.2 The recast Judgments Regulation contains revised provisions both on jurisdiction, and on recognition and enforcement of judgments. The CPR contain provisions in relation to recognition and enforcement which require amendment to reflect the provision in the recast Judgments Regulation. The main change is the removal of the process known as *exequatur* which, under the original Judgments Regulation, requires a judgment of a court in another Member State which is to be enforced in one of the jurisdictions in the United Kingdom to undergo a process of recognition and a declaration of enforceability in the relevant jurisdiction before it can be enforced there.

7.3 CPR Part 74 *Enforcement in Different Jurisdictions* contains provisions for the *exequatur* process, and these are amended (with consequential amendments to Part 6 *Service of Documents*), as follows:

- (a) replacing references to the original Judgments Regulation and provisions of that version of the Regulation with references to the recast Judgments Regulation and provisions of the recast Judgments Regulation;
- (b) removing the requirement for registration or declaration of enforceability in England and Wales of a judgment of a court in another Member State;
- (c) making provision for the procedure for the court’s exercise of the power pursuant to Article 54 of the recast to “adapt” a legal remedy which is contained in a foreign judgment but is of a type unknown to the law of England and Wales, so that it can be enforced in England and Wales; and
- (d) replacing references in Part 6 to the original Judgments Regulation with references to the recast Judgments Regulation.

7.4 This instrument makes transitional and saving provisions to cater for the fact that the original Judgments Regulation will continue to apply in relation to judgments arising from proceedings instigated before 10 January 2015. The rules as they stood immediately before the amendments made by this instrument will continue to apply in such cases.

Consolidation

7.5 No further consolidation of the rules is planned at present.

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). The Advisory Committee on Private International Law, whose members consist of senior judiciary, academics and practitioners who are experts in this field, has been consulted on the rule changes.

9. Guidance

9.1 The rules will be published in consolidated version and will be available on the Ministry of Justice website.

10. Impact

10.1 A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

11. Regulating small business

11.1 The legislation applies to small businesses such as legal practices but impact would not be significant.

12. Monitoring and 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

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