

**EXPLANATORY MEMORANDUM TO**  
**THE FAMILY COURT (COMPOSITION AND DISTRIBUTION OF BUSINESS)**  
**(AMENDMENT) RULES 2014**

**2014 No. 3297 (L. 35)**

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 The purpose of this instrument is to provide for the levels of judge of the family court who are to deal with the new types of proceedings which will be introduced as part of the implementation of the EU Regulation 606/2013 on mutual recognition of protection measures in civil matters<sup>1</sup> (the “Protection Measures Regulation”).
- 3. Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None.
- 4. Legislative Context**
  - 4.1 The Family Court (Composition and Distribution of Business) Rules 2014 (the “2014 Rules”) were made under new section 31D of the Matrimonial and Family Proceedings Act 1984 (the “1984 Act”), as inserted by Schedule 10 to the Crime and Courts Act 2013, and commenced on 22 April as part of the package of legislation to set up the single family court. These amendments to the 2014 Rules are part of a package of statutory instruments to facilitate the implementation of the Protection Measures Regulation, the other instruments being—
    - The Civil Jurisdiction and Judgments (Protection Measures) Regulations 2014 (S.I. 2014/3298) (the “2014 Regulations”)
    - The Family Procedure (Amendment No.4) Rules 2014 (S.I. 2014/3296 (L.34))
    - The Civil Procedure (Amendment No.8) Rules 2014 (S.I. 2014/3299 (L.36)).
- 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 negative resolution procedure and does not amend primary legislation, no statement is required.

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<sup>1</sup> OJ No L181, 29.06.2013, p4.

## **7. Policy background**

- 7.1 The Protection Measures Regulation is an EU instrument which enables a protected person to take a protection measure ordered in one Member State to another Member State (except Denmark, which is not bound by the Regulation) and have it recognised and, if necessary, enforced there against the person causing the risk. The obligations imposed on the person causing the risk which qualify as protection measures are defined by the Protection Measures Regulation and generally involve requirements to stay away from or not to contact the protected person. Examples of England and Wales court orders in family proceedings which may include a protection measure include non-molestation orders. The UK opted in to the Protection Measures Regulation and is bound by it. It will come into force automatically on 11 January 2015.
- 7.2 The family court will be an ‘issuing authority’ under the Protection Measures Regulation and will therefore be dealing with proceedings relating to outgoing protection measures i.e. protection measures found in orders such as non-molestation orders. Under the 2014 Regulations being made by the Secretary of State, the family court will also be dealing with proceedings under the Protection Measures Regulation relating to ‘incoming protection measures’ i.e. protection measures issued in another Member State (except Denmark). The amendments to the 2014 Rules allocate proceedings for protection measures to levels of judge in the family court based on a number of objectives, including, in the case of outgoing protection measures, the level of judge that dealt with, or is dealing with, the domestic protection measure concerned, and/or urgency; and in the case of incoming protection measures, the level of judge that would deal with equivalent proceedings in domestic cases.

### ***Consolidation***

- 7.3 This is the second instrument made under section 31D of the 1984 Act. There are currently no plans to undertake a consolidation exercise.

## **8. Consultation outcome**

- 8.1 The Family Procedure Rule Committee was consulted on the amendments to the 2014 Rules and is content.

## **9. Guidance**

- 9.1 The amendments to these Rules and the other instruments related to the implementation of the Protection Measures Regulation will be published on [www.legislation.gov.uk](http://www.legislation.gov.uk).

## **10. Impact**

- 10.1 There will be a small impact on business; solicitors and barristers will need to be aware of the amendments and how to apply them.

10.2 This statutory instrument has no impact on the public sector, charities or voluntary bodies, save to the extent that they support individuals when going to court and assist in other legal matters they may need to familiarise themselves with the amendments.

10.3 An Impact Assessment has therefore not been prepared for this instrument.

**11. Regulating small business**

11.1 The legislation does not apply to small business other than as set out at 10.1 above.

**12. Monitoring & review**

12.1 The effect of these amendments will be reviewed in the light of experience.

**13. Contact**

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