

**EXPLANATORY MEMORANDUM TO
THE CIVIL PROCEDURE (AMENDMENT NO. 4) RULES 2014**

2014 No. 867 (L. 16)

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 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 county courts.

2.2 The majority of the amendments to the CPR covered by this instrument relate to the Government initiatives on bailiff and enforcement reform, and on the introduction of the single County Court. In particular, the amendments in this instrument are consequential on: changes to the CPR in relation to enforcement (particularly the introduction of CPR Parts 83 to 86) made by Statutory Instrument 2014 No. 407; other changes in relation to enforcement made by the Tribunals, Courts and Enforcement Act 2007; the implementation of the single County Court on the coming into force of provisions in section 17 of, and Schedule 9 to, the Crime and Courts Act 2013; and changes to the CPR in relation to the single County Court made by the Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407).

2.3 The remaining amendments to the CPR covered by this instrument relate to: clarification of the rules in respect of costs management and costs budgets; and allowing all judges of the High Court to hear certain permission applications in respect of certain committal proceedings.

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

3.1 The Committee’s attention is drawn to rule 5 where the expression “will” is used. We note the contents of the Committee’s First Special Report published on 15th May 2013, and in particular, paragraphs 11 and 12 of that report and, accordingly, make no further comment of the use of this expression at this time.

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 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.

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.

7. Policy background

7.1 This instrument amends the CPR as follows.

7.2 The majority of the amendments are consequential on rules made for the introduction of the single County Court and the implementation of the Tribunals, Courts and Enforcement Act 2007 on bailiff and enforcement reform. The major amendments in respect of these initiatives are contained in Statutory Instrument No. 407 of 2014 and come into force in April. Work on the consequential amendments was deferred so that the major changes could be made and published in order to give stakeholders the opportunity to digest the changes before implementation.

7.3 The rules are also amended to provide clarification of the rules introduced in 2013 which extended the courts' management powers in respect of costs. Following a consultation by the CPRC the type of case where cost management will apply and costs budgets are to be filed is more clearly defined and applies to all Part 7 Multi-track claims except: where the claim is valued at £10m or more; where the proceedings are subject to fixed or scale costs; or where the court orders it to apply.

7.4 In other types of case the court will have the discretion to implement costs management and parties will be able to apply for costs management if it is deemed appropriate by the circumstances of the individual case.

7.5 Amendments are also made to provide that particular permission applications in relation to committal for interference with the due administration of justice or in relation to committal for making a false statement of truth or disclosure statement can be made to any single judge of the High Court rather than only to a single judge of the Queen's Bench Division. The amendment will assist the court in listing such applications in a timely manner.

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

Consolidation

7.6 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). Where the Committee initiates amendments then consultation is undertaken where deemed necessary. The Civil Procedure Rule Committee consulted on the costs management and cost budgeting rules introduced in 2013. The consultation took the form of a questionnaire circulated to various organisations including the Law Society, various Bar Associations, Court User Committees associated with the Senior Courts, judiciary and legal representatives undertaking work in the Senior Courts. Two public stakeholder meetings were also held. Copies of the consultation paper, responses, and the material presented to the Civil Procedure Rule Committee are available from the secretary to the Committee whose contact details are shown at the end of this memorandum. Consultation on the two main initiatives contained in the Statutory Instrument, the single County Court and bailiff and enforcement reform were undertaken by the Ministry of Justice and details are contained in the Explanatory Memorandum which accompanies the Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), which can be found at <http://www.legislation.gov.uk/uksi/2014/407/contents/made>.

9. Guidance

9.1 A preview summarising the forthcoming changes will be published on the Ministry of Justice website in April 2014 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 April 2014.

9.2 The rules will be published in consolidated version and will be available on the Ministry of Justice website when the majority come into force in April 2014.

10. Impact

10.1 The majority of the amendments will impact on businesses and individuals, some will directly impact on charities and voluntary bodies.

10.2 An Impact Assessment has not been provided for this instrument. However, an Impact Assessment and Equality Impact Assessment on the establishment of a single County Court, was published alongside the consultation paper and response document and is available at: <https://consult.justice.gov.uk/digital-communications/county-court-disputes>. An Impact Assessment was carried out to consider the impact of the introduction of the bailiff and enforcement reforms and is available at: <https://consult.justice.gov.uk/digital-communications/transforming-bailiff-action>.

11. Regulating small business

11.1 The legislation applies to small businesses.

11.2 There has been extensive consultation with relevant bodies, including claimant and defendant representative groups throughout the development of these provisions. We do not anticipate that the requirements will have any special impact on small firms over and above those that apply to any other party in civil litigation.

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

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