

EXPLANATORY MEMORANDUM TO
THE CIVIL PROCEDURE (AMENDMENT NO. 5) RULES 2015

2015 No. 1881 (L. 22)

1. Introduction

- 1.1 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 relate to rules for the transfer of defended, money only, claims within the County Court.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

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. Extent and Territorial Application

- 5.1 This instrument extends to England and Wales only.
- 5.2 This instrument applies to England and Wales only.

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.

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 make changes to CPR 26.2A(3) (Transfer of money claims within the County Court), to provide that claims for an unspecified amount of money are sent from the place of issue to the claimant's preferred hearing centre as indicated on the claim form or directions questionnaire. Amendments are also made to CPR 26.2A(2), (4) and (5) to make clear which hearing centre claims should be sent in various circumstances.
- 7.2 The majority of claims issued in the County Court are for a specified amount of money, for example non-payment of a credit card debt. Claims for an unspecified amount of money are usually for damages, for example injuries sustained in a road traffic accident. Such claims can be issued through one of two centres ('the centres'). One centre handles specified money claims submitted electronically, the other specified money claims submitted in paper format and all unspecified claims. Claims are handled administratively at the point of issue until, and if and when, a hearing is required, at which time the claim will be sent to a local hearing centre. Court staff determine the local hearing centre the case is to be sent to by reference to the type of claim (specified or unspecified amount of money) the status of the defendant (an individual), and any preference expressed in the documents filed.
- 7.3 Historically, in a claim for a specified amount of money, where the defendant was an individual, the claim would be sent to the local hearing centre for the area that the defendant lives or carries on their business. All other specified money claims and all unspecified money claims would be sent to the claimant's preferred hearing centre. Parties were at liberty to apply to the court at any point in the proceedings for the claim to be sent to another hearing centre.
- 7.4 Changes were made to the rules in 2014 (SI 407/2014), to provide for the introduction of the single County Court. As part of the reforms, CPR 26.2A(3) was amended to provide that all money claims, whether for a specified or unspecified amount, should be sent to a hearing centre local to the defendant. However, the centres were unaware of this change and continued to send claims to hearing centres in accordance with the previous rule. When the matter was brought to the attention of the centres, it became apparent that court users were, overall, content with the previous practice and that, from the centres' point of view, the revised procedure would be more costly and difficult to administer. In light of this, Her Majesty's Courts and Tribunals Service decided to formally revert to the previous practice, which is given effect by this amendment.

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 Committee did not consider that any of the proposals for rules before it required separate consultation by the Committee.

9. Guidance

- 9.1 The rules will be published in a consolidated version and will be available on the Ministry of Justice website; but no specific guidance is considered necessary on their operation.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.

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

- 13.1 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.