

EXPLANATORY MEMORANDUM TO
THE CIVIL PROCEDURE (AMENDMENT No. 4) RULES 2015

2015 No. 1569 (L. 20)

- 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 cover a variety of matters, in part minor updating changes but including more substantial provisions in relation to case management in cases involving unrepresented parties, implementation of provisions about certain planning statutory challenges in the Criminal Justice and Courts Act 2015, and the establishment of a new specialist list called the Financial List.

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 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 cover a range of matters. Some are minor updating changes, to—

- (a) amend rule 3.1 (court's general powers of management) to make it clear, for the avoidance of doubt, that the court's powers include hearing an Early Neutral Evaluation (a form of Alternative Dispute Resolution);
- (b) insert in Part 5, after the provisions in that Part about access to court documents, a cross-reference to provisions elsewhere in the Rules or Practice Directions which disapply, or apply with modifications, the provisions about access to documents (a minor refinement to assist the user);
- (c) amending rule 7.4 to ensure that the claimant not only serves particulars of claim on the defendant, but also files them (to remove scope for confusion in cases where the particulars are served separately from the claim form).

7.2 Other amendments make provision of greater substance, to—

- (a) insert into Part 3 (the court's case management powers) a new rule 3.1A, which makes provision for the way in which the court is to approach case management in a case where at least one of the parties is unrepresented: this provision arises from the report of the Judicial Working Group on Litigants in Person chaired by Mr Justice Hickinbottom, which may be found at—

<https://www.judiciary.gov.uk/publications/judicial-working-group-lip-report/>;

- (b) inserting a new rule 52.15B covering appeals in planning statutory reviews (this provision forms part of the implementation of section 91 of and Schedule 16 to the Criminal Justice and Courts Act 2015); and
- (c) inserting a new Part 63A to introduce a new specialist list called the Financial List, to handle the more complex and important financial markets cases: this provision follows from an initiative announced by the Lord Chief Justice in his Mansion House speech in July 2014, in which he said—

“There is much that is happening in the international financial markets on which the prosperity of the City and our nation depends. We must be sure that we are providing at the Rolls Building what the markets require by way of fast, efficient and economical dispute resolution. We will be looking closely through joint work between the Chancery Division and the Commercial Court of the Queen's Bench Division at what more we can do to meet the needs of court users in financial cases, seeking views from the institutions, the markets and the professions.”

Consolidation

7.3 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. The Financial List proposal was the subject of an initial consultation by way of meetings held at the Rolls Building over the course of October and November 2014, and a further consultation in 2015 involving sending draft proposals with a consultation letter to a wide range of consultees (including all those consulted in the first round), whose responses were positive.

9. Guidance

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

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 the impact is not 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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