

**EXPLANATORY MEMORANDUM TO**  
**THE FAMILY PROCEDURE (AMENDMENT) RULES 2015**

**2015 No. 913 (L. 13)**

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 These Rules amend the Family Procedure Rules 2010 (“the 2010 Rules”), which set out the practice and procedure to be followed in family proceedings in the High Court and the family court. The amendments are for two purposes: to improve the efficiency of existing procedures, and to make consequential changes required as a result of the coming into force of other legislation.

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

3.1 None.

**4. Legislative Context**

4.1 These Rules include provisions consequential upon:

- section 9 of the Marriage (Same Sex Couples) Act 2013 which provides that a same sex couple in a civil partnership may convert that civil partnership into a marriage and section 12A of the Matrimonial Causes Act 1973 which makes provision for the annulment of such marriages.
- section 8(5A) of the Gender Recognition Act 2004 which provides that where an interim gender recognition certificate is granted to an applicant, the applicant’s spouse may apply to the High Court to quash the decision to grant a certificate on the ground that its grant was secured by fraud.
- amendments to Part 4A of the Family Law Act 1996 making breach of a forced marriage protection order an offence.

4.2 These Rules also include provision to improve the efficiency of the family court in handling applications for a divorce or dissolution of a civil partnership in undefended cases. This provision links to a related statutory instrument, the Justices’ Clerks and Assistants (Amendment) Rules 2015.

**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.

## **7. Policy background**

- 7.1 The Family Procedure Rule Committee amends the 2010 Rules periodically in light of legislative changes, representations from court users and their own proposals for procedural improvements. These Rules include provision to—

- (a) include references to proceedings for nullity of a marriage converted from a civil partnership;
- (b) require the court before making a decree of nullity of marriage absolute or a final order of nullity of a civil partnership to be satisfied that, where a decree or order was granted on the basis that an interim gender recognition certificate had been granted to either party since the marriage or civil partnership, there is no application pending for the decision to grant an interim certificate to be quashed on the ground that it was secured by fraud.
- (c) amend provisions for service of forced marriage protection orders in light of the fact that breach of a forced marriage protection order has been made an offence;
- (d) amend the requirements on a party giving notice of an intention to oppose, or apply for, costs in undefended matrimonial or civil partnership proceedings in light of plans that such proceedings will be dealt with at 11 divorce centres in England and Wales, so that a longer notice period has to be given than previously. The amendment also gives the court power to make directions about any subsequent hearing.
- (e) make a minor correcting amendment.

### **7.2 Consolidation**

The 2010 Rules provide a consolidated unified set of rules for all types of family proceedings. These Rules amend the 2010 Rules. There are currently no plans to undertake a consolidation exercise. The 2010 Rules as amended will be published on the Family Procedure Rules website at the following link: <http://www.justice.gov.uk/guidance/courts-and-tribunals/courts/procedurerules/family/index.htm>

## **8. Consultation outcome**

- 8.1 The Family Procedure Rule Committee (“the Committee”) must, before making Family Procedure Rules, consult such persons as they consider appropriate (section 79(1)(a) of the Courts Act 2003). Where amendments are required in consequence of initiatives which have themselves been the subject of consultation, the Committee will not generally

undertake additional formal consultation. As the amendments contained in these Rules are minor or consequential upon primary legislation, the Committee decided it was not appropriate to consult.

## **9. Guidance**

9.1 The 2010 Rules as amended will be available to the public and to practitioners on the Ministry of Justice website [www.justice.gov.uk](http://www.justice.gov.uk).

9.2 Guidance to HMCTS staff will be updated to reflect procedural changes arising from these Rules.

## **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 that HMCTS staff will need to be aware of the amendments and how to apply them.

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

## **11. Regulating small business**

11.1 The statutory instrument does not apply to small businesses other than as set out at 10.1 above

## **12. Monitoring and review**

12.1 The Family Procedure Rule Committee will monitor the effects of these amendments as part of its ongoing consideration of the 2010 Rules.

## **13. Contact**

Clive Buckley, Secretary to the Family Procedure Rule Committee, Ministry of Justice, Tel: 020 3334 3181 or email: [clive.buckley@justice.gsi.gov.uk](mailto:clive.buckley@justice.gsi.gov.uk); can answer any queries regarding the instrument.