EXPLANATORY MEMORANDUM TO

THE ADJUDICATOR TO HER MAJESTY'S LAND REGISTRY (PRACTICE AND PROCEDURE) (AMENDMENT) RULES 2008

2008 No. 1731

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These Rules amend the current Adjudicator to HM Land Registry (Practice and Procedure) Rules 2003, ('the Rules') and are intended to streamline the Rules and to make them more effective.

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

3.1 None.

4. Legislative Background

4.1 These amendments to the Rules have not been necessitated by any change in legislation, but are intended to help the Adjudicator to the Land Registry ('the ALR') overcome procedural obstacles he has come up against when using the current version of the Rules. They will help reduce administrative burdens on the office, such as the photocopying of lengthy documents (for example case evidence and witness statements) which the Rules currently require. They will also make case management more streamlined, for example by allowing cases to be dealt with by summary disposal.

5. Territorial Extent and Application

5.1 This instrument applies to England, Wales, and Northern Ireland.

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 These amendment rules have been drafted to help the ALR overcome procedural obstacles and reduce administrative burdens. This will also assist the Adjudicator, as the amendments will:

7.1.1 provide the Adjudicator with power to make an order which may be necessary to resolve the case once the court has resolved a question, without a party having to return to court to seek enforcement of the court's decision;

7.1.2 require key documents to be provided at the outset of proceedings, allowing the key issues to be identified at an early stage;

7.1.3 require certain documents to be verified by a statement of truth, in order to provide an early requirement for parties to consider the reality of their position;

7.1.4 expressly provide for case management conferences in order to assist in case management;

7.1.5 enable the burden of copying and service of certain documents to be placed on parties rather than the Adjudicator;

7.1.6 provide for full disclosure by list to ensure that relevant documents are brought to the attention of the parties and the Adjudicator;

7.1.7 provide for summary disposal of cases with no prospect of success;

7.1.8 enable the Adjudicator to take into account all relevant factors when considering costs, and to make more flexible costs orders in order to achieve the appropriate result; and

7.1.9 make minor changes to the form of orders and lists of documents in order to allow further flexibility as to how these are made.

7.2 These amendments will ensure a speedy and efficient resolution of cases, which will be of benefit to the applicants.

7.3 The amendment rules also make transitional provision in order to clarify the effect of the amendments on cases around the time that the amendment rules come into force.

Consultation

7.4 A public consultation exercise took place between 15 August and 7 November 2007. Copies of the consultation paper were sent to industry professionals and key stakeholders. There were no comments on the Rules, except a general statement welcoming the proposals and confirming they are pragmatic. Further information on the consultation can be found on the department's website at http:www.dca.gov.uk/consult/case-track-limits/cp0307.htm.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as the changes proposed are minor and will not impact on business, charities, the voluntary or public sectors.

9. Contact

9.1 Olga Kostiw at the Ministry of Justice (telephone: 020 7566 1276 or e-mail: olga.kostiw@tribunals.gsi.gov.uk) can answer any queries regarding the instrument.