EXPLANATORY MEMORANDUM TO

THE CIVIL PROCEDURE ACT 1997 (AMENDMENT) ORDER 2006

2006 No. 1847 (L.7)

1. This explanatory memorandum has been prepared by the Department of Constitutional Affairs and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This order will amend the membership of the Civil Procedure Rule Committee ('the committee') to allow that a second District Judge may be appointed.

2.2 The committee is an advisory non-departmental public body which makes rules that govern practice and procedure in the county court, High Court and the Civil Division of the Court of Appeal.

2.3 The committee currently consists of the Head and Deputy Head of Civil Justice, two judges of the Senior Courts, one Circuit Judge, one Master of the Senior Courts, one District Judge, three barristers, three solicitors and two lay members.

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

3.1 None

4. Legislative Background

4.1 The instrument is being made to give effect to a matter of departmental policy.

4.2 This is the first time the membership of the committee has been amended using section 2A(1) of the Civil Procedure Act 1997 as amended by the Constitutional Reform Act 2005.

5. Extent

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 it does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Civil Procedure Act (1997) created the Civil Procedure Rule Committee and gave it power to make Civil Procedure Rules (CPR). The first CPR were made as the Civil Procedure Rules (1998). The intention of 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 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.

7.2 It is common practice for the committee, during the course of its business, to create sub-committees to consider particularly weighty issues. As District Judges deal with the bulk of litigation before the courts, it is vital that a District Judge is present on all of these subcommittees. However, this adds considerably to the amount of time the current District Judge member is expected to dedicate to committee business, to the extent that the expectation on him is disproportionately high. It was considered fairer to create a position for a second District Judge to share these duties, in line with the two positions for Senior Courts judiciary.

7.3 The Civil Procedure Act provides that such an order may be made in concurrence with the Lord Chief Justice, and in consultation with the Head and Deputy Head of Civil Justice. The Lord Chief Justice has concurred to the order, and the Head and Deputy Head of Civil Justice have both confirmed that they are content for the order to be made.

7.4 Public interest in all aspects of civil procedure is, generally speaking, limited.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it does not have an impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is generally limited to HM Courts Service.

9. Contact

9.1 Richard Walley at Her Majesty's Courts Service (Tel:020 7210 2625 or e-mail: richard.walley@hmcourts-service.gsi.gov.uk) can answer any queries regarding the instrument.

[1] This work is ongoing; the few remaining CCR and RSC are included in 'schedules' to the CPR.