EXPLANATORY MEMORANDUM TO

THE CIVIL PROCEDURE (AMENDMENT) RULES 2025

2025 No. 106 (L. 2)

1. Introduction

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

2. Declaration

2.1 Sarah Sackman KC MP, Minister of State at the Ministry of Justice, confirms that this Explanatory Memorandum meets the required standard.

2.2 Steven Jarman, Deputy Director for Civil Justice & Law Policy, at the Ministry of Justice, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Amrita Dhaliwal at the Ministry of Justice email: ***amrita.dhaliwal@justice.gov.uk*** can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument amends the Civil Procedure Rules 1998 (S.I. 1998/3132) ("the CPR"), which govern practice and procedure in the Civil Division of the Court of Appeal, the High Court and the County Court. The amendments cover eight matters, explained in paragraph 5, below: (i) Parts 3 and 44 concerning Strategic Litigation Against Public Participation (SLAPP) Claims (ii) Part 23 General Rules about Applications and Court Orders (iii) Part 25 Interim Remedies and Security for Costs (iv) Part 45 Fixed Costs (v) Part 58 Commercial Court and 59 Circuit Commercial Court (vi) Part 65 Proceedings Related to Anti-Social Behaviour and Harassment (vii) Part 82 Closed Material Procedure (CMP) and (viii) Some minor amendments and tidying up of the Rules such as to Part 42 Change of Solicitor and Part 49 Specialist Proceedings. References to a Part or rule by number alone are references to the Part or rule so numbered in the CPR.

Where does the legislation extend to, and apply?

4.2 The territorial extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales.

5. Policy Context

What is being done and why?

5.1 The CPR are amended for the following purposes —

5.2 Part 3 The Court's Case Management Powers and Part 44 General Rules About Costs - Strategic Litigation Against Public Participation (SLAPP) Claims. The Economic Crime and Corporate Transparency Act 2023 brought in measures to address SLAPPs relating to economic crime. The Act requires new procedural rules to bring the measures into effect. These provisions seek to provide greater protection to defendants in SLAPPs cases by; allowing claims determined to be SLAPP to be dismissed early in proceedings - where the claimant has failed to show that it is more likely than not that the claim would succeed at trial and providing defendants with cost protection. The provisions seek to lessen the financial and psychological burden for defendants of SLAPPs claims.

5.3 Part 23 General Rules about Applications and Court Orders – rule 23.8 is amended to remove a potential ambiguity in the drafting, to clarify that parties in proceedings do not lose their right to make an application to set aside a judgment, where they have previously been given an opportunity to make representations where the court is invited to proceed without a hearing.

5.4 Part 25 Interim Remedies and Security for Costs – this is part of the Civil Procedure Rule Committee's programme to review the CPR with the aim of streamlining and simplifying the rules and Practice Directions (PDs). This suite of reforms comprises a complete rewrite of Part 25 and dispenses with two PDs (PD 25A and PD 25B) which has removed duplication and reduces the overall length of the rules. Consequently, changes are also made to Part 4 (Court Forms) to provide for model (search and imaging) orders within the CPR provision and to Part 52 (Appeals) and Part 74 (Enforcement of Judgments in Different Jurisdictions).

5.5 Part 45 Fixed Costs – the costs recoverable in respect of obtaining fixed cost medical reports and medical records in road traffic accident-related soft tissue and whiplash injury claims are uprated by 25.4% in line with Services Producer Prices Inflation (SPPI) measure. This revision takes account of the impact of SPPI on the fixed cost medical reporting regime between their implementation in October 2014 and June 2024. These amendments are subject to a transitional provision. The majority of such claims to which Part 45 applies are started, pre-action, using a claim notification form under the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents, while in some cases notification is by way of a letter of claim. The increases will only apply in those cases where the claimant sends the claim notification form or letter of claim (as the case may be) on or after 6 April 2025.

5.6 Part 58 and 59 Commercial Court and Circuit Commercial Court – to clarify the application of the Alternative Dispute Resolution (ADR) provisions as applied to the Commercial Court and Circuit Commercial Courts. This is achieved by including a cross-reference to rule 29.2(1A), to require the court to consider whether to order or encourage the parties to engage in ADR in claims in the Commercial Court and Circuit Commercial Court respectively.

5.7 Part 65 Proceedings Related to Anti-Social Behaviour and Harassment – a clarificatory amendment is made to rule 65.45(2) so that an application made under section 8 of the Anti-Social Behaviour, Crime and Policing Act 2014 to vary or

discharge an injunction may be made without providing notice. This ensures consistency with similar applications in respect of injunctions made under section 42(1) of the Policing and Crime Act 2009, to which rule 65.45 also applies.

5.8 Part 82 Closed Material Procedure (CMP) – CMP refers to procedures that allow Government departments and state actors to disclose sensitive material in legal proceedings in a way that enables them to meet their disclosure obligations without damaging matters of public interest. The rules governing the use of CMP under the Justice and Security Act 2013 are set out in CPR Part 82, and concern material that is sensitive to matters of national security. The court may order that material should not be disclosed where such disclosure would be damaging to the interests of national security. Amendments are made to give effect to recommendation 12 (participation in section 6 directions hearings) and recommendation 15 (on cost management provisions) in the Independent Report on the Operation of CMP under the Justice and Security Act 2013 ('the Ouseley Report'). Rule 82.5 (case management) is amended to provide that where, in proceedings, the court makes a declaration under section 6(2) of the Justice and Security Act 2013 permitting the making of closed material applications, the costs management provisions in Section II of Part 3 of the CPR shall not apply to those proceedings, and to further provide, first, that any costs management orders already made shall not apply to costs incurred after the declaration is made and, secondly, that the court may make any order for costs incurred before the declaration is made which it considers appropriate. Rule 82.23 (directions for hearing of application) is also amended to remove provisions which prevent a specially represented party and their legal representative from attending a directions hearing in respect of, and the hearing of, an application for a declaration under section 6(2) of the 2013 Act, so permitting attendance at those hearings except as provided by rule 82.6 (hearings in private).

5.9 Tidying Up and Clarifications: various minor amendments are made to correct inaccuracies or generally to update the rules, such as to Part 42 Change of Solicitor to 'tidy up' rule 42.2 to improve usability by bringing the legislative references cited within the rule up to date and to remove an unnecessary cross-reference, and to Part 49 Specialist Proceedings, which is amended to make clear that a practice direction made under this rule may modify or disapply any provision in the Civil Procedure Rules in connection with the proceedings to which the practice direction applies.

What was the previous policy, how is this different

5.10 This is explained for each of the amendments in paragraphs 5.2 to 5.9 above.

6. Legislative and Legal Context

How has the law changed?

6.1 Civil Procedure Rules are made by the Civil Procedure Rule Committee (CPRC) under the Civil Procedure Act 1997, section 2(6) of which requires the CPRC before making rules to meet (unless inexpedient to do so) and consult such persons as they consider appropriate. The CPRC meets nine times a year and except in very rare circumstances considers any proposed matters for inclusion in the rules in at least one meeting (as it did for the matters in the present instrument). Consultation is addressed in section 7 of this memorandum.

Why was this approach taken to change the law?

6.2 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 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 consults, as it considers appropriate to the rules or amendments to rules in question, in a number of ways of differing degrees of formality, including specific correspondence with bodies considered appropriate to be consulted; involving representatives of interested organisations in the work of sub-committees reviewing particular aspects of the rules; inviting and reviewing suggestions and observations solicited by its members from among the groups from which each is drawn; and inviting and reviewing suggestions from relevant Government Departments and other authorities affected by rules of civil procedure.

7.2 For matters in this instrument, differing approaches to consultation were taken, ranging from consultation of the more informal sort described above in the case of amendments made in these Rules particularly involving seeking the view of HM Courts & Tribunals Service and the judiciary in the specific areas affected. More detailed consultation was taken in relation to matters set out at paragraphs: 5.2 on Parts 3 and 44 Strategic Litigation Against Public Participation (SLAPP) Claims; 5.4 on Part 25 Interim Remedies and Security for Costs; 5.5 on Part 45 Fixed Costs for medical reports, and 5.8 on Part 82 Closed Material Procedure. These are described immediately below:

7.3 Parts 3 and 44 Strategic Litigation Against Public Participation (SLAPP) Claims - The Government launched a Call for Evidence on SLAPPs in May 2022 which resulted in legislative proposals to address the issue, including a new statutory definition, early dismissal mechanism and costs protection regime to limit the financial risk for parties defending SLAPPs claims. Focused provisions concerning SLAPPs relating to economic crime were introduced accordingly in Sections 194-195 the Economic Crime and Corporate Transparency Act 2023.

- Part 25 Interim Remedies and Security for Costs - The reforms followed a public consultation (which ran from 18 December 2023 to 09 February 2024) and attracted five responses from professional users, and the judiciary.
- Part 45 Fixed Costs – These amendments follow consultation with affected stakeholders via the 'Revisions to the Medical Reporting Process for Road Traffic Accident Claims' consultation from18 July 2023 to 10 October 2023. The Government response was published on 16 December 2024. 40 responses were received in relation to the fixed cost medical report questions with 29 respondents agreeing with the proposed increases.
- Part 82 Closed Material Procedure (CMP) -These amendments are made in response to recommendations 12 and 15 of Sir Duncan Ouseley's Independent report into CMP. The Government has worked with a range of internal and external stakeholders such as Special Advocates and members of the Judiciary to produce the drafting amendments.

8. Applicable Guidance

8.1 Amendments to the CPR are drawn to the attention of participants in the civil justice system by correspondence addressed by the CPR Committee secretariat to members of the judiciary, to other relevant representative bodies (for example the Law Society of England and Wales, the General Council of the Bar and the advice sector) and to the editors of relevant legal publications; as well as by publicity within HM Courts

and Tribunals and Tribunal Service. News of changes to the rules, together with the consolidated version of the rules, are published on the Ministry of Justice website.[i]

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because no, or no significant, impact on the private, public or voluntary sectors is foreseen.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because no, or no significant impact, is foreseen.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because no, or no significant impact, is foreseen.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring of this legislation is for the amendments to form part of the Civil Procedure Rules which are kept under continuous review by the Civil Procedure Rule Committee and may be subject to amendment accordingly.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

[i] https://www.justice.gov.uk/courts/procedure-rules/civil/rules