EXPLANATORY MEMORANDUM TO

THE CIVIL PROCEDURE (AMENDMENT) RULES 2026

2026 No. 97

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 and 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 Conty Court. The amendments cover four matters, explained in paragraph 5 below: (i) Online Procedure Rules (ii) Interim Serious Crime Prevention Orders (iii) Closed Material Procedures and (iv) some other minor modifications and tidying up of the Rules. 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 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:

Online Procedure Rules – OPRC is currently preparing to make its first OPR[1], which will initially apply only to possession proceedings. The date is to be confirmed, but when the first OPR are made, Schedule 4 of the Judicial Review and Courts Act 2022 will also come into force. The Act's provisions will amend the Civil Procedure Act

[1] https://www.legislation.gov.uk/ukdsi/2025/9780348268393

1997 by introducing a requirement that CPR are written in such a way that they do not govern practice and procedure covered by the OPR and making it clear that CPR Practice Directions do not apply in relation to proceedings governed by OPR. The purpose of this requirement is to ensure there is no overlap between the OPR and CPR. This is achieved by way of a general exception to CPR Part 2 (Application and Interpretation of the Rules) which provides that, where proceedings are governed by OPR, CPR do not apply to those proceedings, except as provided by OPR or practice directions or regulations made under the Judicial Review and Courts Act 2022.

5.2 Interim Serious Crime Prevention Orders (ISCPO) – amendments are made to CPR Part 77 to implement procedures for ISCPOs, introduced under the Border Security, Asylum and Immigration Act 2025. Serious crime prevention orders (SCPO) are preventative orders which can impose tailored prohibitions, restrictions and requirements on a person for a period of up to five years to prevent or disrupt their involvement in serious crime. The Government is working to improve their effectiveness, part of which is the introduction of a new ISCPO. SCPOs and in turn ISCPOs intend to serve as a powerful tool for preventing and disrupting the activities of the highest-harm criminals. Under the current procedure for SCPOs, the defendant has 14 days to file an acknowledgement of service having been served the claim form which commences proceedings for an SCPO in the High Court. Within this timeframe they can reorganise their criminal undertakings, hide financial assets and potentially destroy evidence. ISCPOs under the new provisions, therefore, seek to close this critical window of opportunity: applications can be made without notice, and the interim order will be binding immediately on the order's terms being notified to the defendant. By doing so, the intention is to restrict the behaviour of someone suspected of involvement in serious crime, including organised immigration crime.

5.3 Closed Material Procedure (CMP) – this amendment, to CPR Part 82, gives effect to recommendation 5 from the independent report by Sir Duncan Ouseley on the operation of Closed Material Procedure under the Justice and Security Act 2013 (the Ouseley Report). The amendments recognise that special advocates may submit closed pleadings or grounds of challenge or may be required to do so by way of a direction of the court made of its own volition.

5.4 Tidying Up – various minor modifications to generally bring the CPR up to date, such as to update statutory references in consequence of the Procurements Act 2023, noting that the transitional provisions following the revocation of the Public Contracts Regulations 2015 necessitate retaining reference in the rule of those regulations (Rule 54.5); a clarificatory amendment regarding the Court's power to order requests for disclosures from a non-party to address inconsistency across the civil jurisdiction (new Rule 31.12A); and minor changes in Part 45 such as correcting a cross reference and to reflect the name change from 'Motor Insurance Database' to 'Navigate (Motor Insurance Policy Database' in relation to the Road Traffic Accident Small Claims Official Injury Portal which operates under procedures within the CPR.

What was the previous policy, how is this different?

5.5 Each of the amendments at paragraphs 5.2 to 5.4 cover the policy changes.

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. This ranges from consultation of the more informal sort described above (involving seeking the view of HM Courts & Tribunals Service and the judiciary in the specific areas affected) for example, on Online Procedure Rules at para 5.2, on Interim Serious Crime Prevention Orders at para 5.3 and those minor amendments at para 5.5. A fuller consultation was conducted on para 5.4 (Closed Material Procedure (CMP)): Development of the rule changes under CPR Part 82 to give effect to recommendation 5 from the Ouseley Report included consultation with practitioners, including specialist members of the Government Legal Department Litigation teams, Special Advocates and HMG Advocates and members of the judiciary who are experienced with CMP cases; all of whom are content with the proposals.

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 Service (HMCTS). News of changes to the rules, together with the consolidated version of the rules, are published on the Ministry of Justice website[2].

Part Two: Impact and the Better Regulation Framework

9. Assessment

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

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

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 As part of the Civil Procedure Rules, these amendments will be 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 is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").