EXPLANATORY MEMORANDUM TO

THE ONLINE PROCEDURE RULES (SPECIFIED PROCEEDINGS) REGULATIONS 2025

2025 No. [XXXX]

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 Minister Sackman, Minister of State for Courts and Legal Services at the Ministry of Justice confirms that this Explanatory Memorandum meets the required standard.

2.2 Sarah Rose, Deputy Director for the Digital Justice System and Open Justice and Transparency Policy, at the Ministry of Justice confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Irram Khan at the Ministry of Justice email: OPRC@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 The purpose of this statutory instrument is to specify the types of proceedings where Online Procedure Rules can be developed by the Online Procedure Committee (OPRC). The specified proceedings are:

- Civil proceedings in England and Wales relating to property
- Family proceedings in England and Wales relating to financial remedies
- First Tier and Upper Tribunal proceedings related to property.

4.2 This instrument does not define 'property', meaning that property includes personal property and realty (property involving land and buildings)

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales in respect of civil and family proceedings and England and Wales, Scotland and Northern Ireland in respect of Tribunal proceedings.

5. Policy Context

What is being done and why?

5.1 Online Procedure Rules are intended to be simple and easy to understand, benefiting users of the justice system.

5.2 The OPRC is a new rule making committee established in June 2023 under the Judicial Review and Courts Act 2022, to make rules governing the practice and procedure for specific types of online court and tribunal proceedings across the Civil, Family and Tribunal jurisdictions. This statutory instrument will give effect to the Judicial Review and Courts Act 2022 by specifying types of proceedings for which the OPRC may make rules.

5.3 This statutory instrument will give the OPRC powers to make Online Procedure Rules for the following proceedings:

- Property proceedings in the civil jurisdiction: The OPRC will make rules for the new digital possession service being developed by HMCTS. This forms part of the government's wider agenda on renters' rights.
- Property proceedings in the First-tier and Upper Tribunals: This will include proceedings in relation to property in the First-tier and Upper Tribunals and will allow some cases currently dealt with by the Property Chamber or the Lands Chamber to be included in Online Procedure Rules, as and when funding and digital developments allow.
- Financial remedies in the family jurisdiction: This will include contested financial remedies and financial consent orders. Online Procedure Rules for these proceedings will be designed to support the existing services, which are governed by Family Procedure Rule Practice Directions.

5.4 The proceedings have been chosen based on the priorities of the government as well as the capacity of the OPRC. The digital possession service being developed by HMCTS forms part of the government's agenda on renters' rights and will require procedural rules in place before it can be used. The possession service will allow users who are digitally disadvantaged to engage with it using paper routes.

What was the previous policy, how is this different?

5.5 This statutory instrument will provide the OPRC with the power to make Online Procedure Rules for the proceedings named above. This instrument does not oblige the OPRC to make Online Procedure Rules in respect of the proceedings but provides the OPRC the power to make such rules.

5.6 Rules for those proceedings are currently made by the Civil Procedure Rule Committee, Family Procedure Rule Committee, and Tribunal Procedure Committee.

5.7 This statutory instrument will not prevent those rule committees from continuing to make rules for those types of proceedings, where Online Procedure Rules do not make provision, or where the Online Procedure Rules or regulations made by the Lord Chancellor otherwise provide. Previously, no types of proceedings had been specified and therefore there were no types of proceedings for which the OPRC could make Online Procedure Rules.

5.8 Before the OPRC was established, it was suggested that the first proceedings for which they would make rules be Online Civil Money Claims. This intention has been overtaken by the immediate requirement to provide Online Procedure Rules for the new digital possession service.

6. Legislative and Legal Context

How has the law changed?

6.1 Section 20(1) of the Judicial Review and Courts Act 2022 states that the OPRC has the power to make Online Procedure Rules for proceedings of a specified kind, but

those proceedings must be specified first in regulations made by the Lord Chancellor. This means that the OPRC cannot make any Online Procedure Rules unless the types of proceedings are specified in regulations. Section 26(3) of the Act provides that rules made by the OPRC are subject to approval by the Lord Chancellor.

7. Consultation

Summary of consultation outcome and methodology

7.1 No public consultation was undertaken on this instrument as this is a specialist and technical instrument. However, the Ministry of Justice has discussed this instrument and its provisions with the OPRC itself. The Act also provides that regulations made under Section 20 of the Act require the agreement of the Lady Chief Justice and the Senior President of Tribunals. The main concern of the judiciary is to ensure that there is no confusion regarding which rules are applicable between the OPR and the applicable standard rules in relation to the specified proceedings. This will be managed through the drafting of the OPR to ensure rules are clear on this point.

8. Applicable Guidance

8.1 No applicable guidance.

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 impact on the private or public sector is foreseen.

Impact on businesses, charities and voluntary bodies

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

9.3 This statutory instrument does not impact small or micro businesses.

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

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is that the Ministry of Justice will keep the specified types of proceedings that the OPRC can make rules for under review. Additionally, the Online Procedure Rules will be kept under continuous review by the OPRC.

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 The Minister of State for Courts and Legal Services, Minister Sackman has made the following statement regarding Human Rights:

"In my view the provisions of the Online Procedure Rules (Specified Proceedings) Regulations 2025 are compatible with the Convention rights."

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").