EXPLANATORY MEMORANDUM TO

THE ONLINE PROCEDURE (RULES AND PRACTICE DIRECTIONS) RULES 2026

2026 No. 696 (L. 11)

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.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

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 Sarah Rose, Deputy Director for Civil, Family and Tribunals Demand and Earlier Resolution Policy at the Ministry of Justice, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Graeme Wood at the Ministry of Justice can be contacted by email at OPRC@justice.gov.uk 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 contains the first Online Procedure Rules ("OPR") made for proceedings conducted by electronic means under Chapter 2 of Part 2 of the Judicial Review and Courts Act 2022 (“the 2022 Act”). The OPR define the practice and procedure to be followed where proceedings of a specified kind are governed by OPR. They are therefore binding procedural rules, not guidance.

4.2 The OPR makes cross-cutting provision applicable to all types of proceedings to which the OPR apply (by way of governing principles and ‘core Rules’). These include the digital service through which proceedings are to be conducted, the overriding objective, duties of parties and representatives, the principle of active case management, accessibility and support, steps to start and respond to proceedings, the use of non-electronic routes where appropriate, time, and general court or tribunal powers. The core Rules are supplemented by rules applicable to specific types of proceedings.

4.3 The instrument also enables pilot schemes to be made by practice direction. A pilot scheme may test new practice or procedure for a specified period, for specified proceedings, or for specified courts and tribunals. This allows an online procedure to be trialled, evaluated and refined before decisions are taken about wider application.

4.4 In practical terms, the Rules will initially apply only to possession proceedings conducted through HM Courts and Tribunals Service's (HMCTS’s) online possession service. The detailed procedural route for those proceedings will be set out in an OPR

practice direction for possession proceedings, and the digital service will guide users through the process. The Rules will only apply to these proceedings once the OPR practice direction is in force. Possession proceedings are civil proceedings in which a landlord, mortgage lender or other person with a right to possession of land or premises asks the court to decide whether they are entitled to recover possession of that land or premises.

4.5 This instrument is intended to come into force as part of a coordinated implementation package. A separate commencement instrument will bring paragraph 2 of Schedule 4 to the 2022 Act fully into force. That paragraph amends the Civil Procedure Act 1997 so that Civil Procedure Rules 1998 (CPR) (S.I. 1998/3132) and CPR practice directions do not apply to proceedings governed by OPR except to the extent expressly provided by OPR, by OPR practice directions or by regulations made under section 21(1)(b) of the 2022 Act.

4.6 Related amendments to the CPR have already been made by the Civil Procedure (Amendment) Rules 2026 (S.I. 2026/97). The relevant CPR amendment is drafted to come into force on the date on which, and immediately after, paragraph 2 of Schedule 4 to the 2022 Act comes fully into force. The effect is that, once the commencement instrument and this instrument are in force, the procedural relationship between OPR proceedings and the CPR will be clear: OPR proceedings will be governed by OPR, with the CPR applying only where they are expressly applied by the OPR.

Where does the legislation extend to, and apply?

4.7 The extent of this instrument (that is, the jurisdiction or jurisdictions of which the instrument forms part of the law) is England and Wales, Scotland and Northern Ireland. This reflects the extent of the OPR provisions in the 2022 Act and the cross-jurisdictional nature of the OPR framework.

4.8 The territorial application of this instrument (that is, where the instrument produces practical effect) will be, on commencement, England and Wales. This is because the first practical application of the OPR is to possession proceedings conducted through HMCTS's online possession service in England and Wales, as determined by a relevant OPR practice direction.

4.9 If the OPR are later applied to tribunal proceedings or to other proceedings with a wider territorial connection, the territorial application and practical effect of those later provisions will be determined by the relevant future instrument or practice direction.

5. Policy Context

What is being done and why?

5.1 The 2022 Act created a statutory framework for a new set of procedural rules for online proceedings. The policy objective is to allow appropriate proceedings, or parts of proceedings, to be started, progressed and managed online while preserving procedural fairness, judicial control, access to non-electronic routes where required, and support for users who cannot use digital services unaided.

5.2 The Online Procedure Rule Committee was established under the 2022 Act to make rules governing the practice and procedure for specified types of online court and tribunal proceedings across the civil, family and tribunal jurisdictions. The Committee is a specialist rule-making body with judicial, practitioner, lay, technology, advice-sector and user-experience expertise. Its role is to develop rules with a view to

ensuring that practice and procedure is accessible and fair, that Rules are simple and simply expressed, and support the quick and efficient resolution of disputes, using innovative methods.

5.3 The Online Procedure Rules (Specified Proceedings) Regulations 2025 (S.I. 2025/536) identify the kinds of proceedings for which OPR may be made. Those are civil proceedings in England and Wales in relation to property, proceedings in the First-tier Tribunal and Upper Tribunal in relation to property, and family proceedings in England and Wales for a financial remedy. This instrument does not apply OPR to all those categories immediately; rather, it creates the framework of core rules, which will then be applied in a controlled way.

5.4 The OPR provide a common foundation that can be used across different online services. They set out general principles and baseline procedural requirements, while leaving service-specific detail to application provisions, specific rules for certain types of proceedings (in Part 3 of the OPR), and practice directions. This is intended to avoid repeating the same procedural machinery each time a new online process is introduced.

5.5 The instrument also supports digital inclusion. It recognises that online procedure must not depend solely on a user's ability to access, operate or remain connected to a digital service. The OPR therefore include provision for non-electronic routes and for the court or tribunal to manage proceedings in a way that is fair and accessible in the circumstances of the individual case.

5.6 The immediate policy need is to support the introduction of an online process for possession proceedings. HMCTS are introducing a digital service for possession in support of legislation changes in the Renters Rights Act. Possession claims are a high-volume area of civil justice and are suitable for a rules framework that provides clear digital steps, prompts parties to provide the information needed by the court, and allows the court to manage proceedings actively and proportionately.

5.7 The OPR are intended to operate alongside the operational design of the HMCTS digital service. The OPR provide the legal authority and procedural requirements; the digital service provides the practical mechanism by which parties take steps, receive prompts and notifications, upload information, and respond to directions or requests from the court.

5.8 The pilot scheme power is an important part of the policy design. It enables the Committee and HMCTS to test changes to procedure before wider roll-out, including changes to forms, digital steps, information requirements, notification arrangements and case-management processes, via a practice direction.

5.9 The instrument affects parties and prospective parties whose proceedings are conducted under OPR, their legal representatives, advice providers, HMCTS, judges, authorised court and tribunal officers, and others who interact with the online process. It does not change substantive rights and liabilities. It changes the procedural route by which specified proceedings may be conducted online.

What was the previous policy, how is this different?

5.10 Before this instrument, civil court and tribunal procedures were governed by separate jurisdiction-specific procedural codes, principally the CPR, the Family Procedure Rules 2010 (FPR) (S.I. 2010/2955) and the various Tribunal Procedure Rules (TPR). Those rules have been amended over time to accommodate electronic filing, online

portals and remote communication in particular contexts, but they were not designed as a single cross-jurisdictional procedural code for online proceedings.

5.11 For possession proceedings, the procedure has been governed principally by the CPR, including Part 55 and related practice directions.

5.12 The new policy is to use OPR for specified proceedings where an online procedure is appropriate. For proceedings within scope, OPR will provide the primary procedural code. The CPR, FPR or TPR will apply only to the extent that the OPR framework or the relevant statutory provisions expressly preserve or apply them.

5.13 This approach gives users and the courts a clearer procedural framework. It avoids uncertainty about whether an online step is merely an administrative facility within an existing rules regime or is itself part of the mandatory procedure for the proceeding. It also allows rules to be drafted in a way that reflects the structure of a digital service, including prompts, online notifications, user journeys and assisted-digital alternatives.

6. Legislative and Legal Context

How has the law changed?

6.1 The OPR are made under and in accordance with Chapter 2 of Part 2 of the 2022 Act. Section 19 provides that there are to be rules governing the practice and procedure to be followed in proceedings of a specified kind when those proceedings are conducted by electronic means. Those rules are known as Online Procedure Rules.

6.2 Section 19 also sets out key statutory objectives and safeguards. OPR may authorise or require parties to initiate, conduct, progress or participate in proceedings by electronic means, but they must have regard to accessibility, fairness and efficiency. The statutory scheme also recognises that non-electronic participation may be required, particularly for users who are not legally represented or who cannot use the digital process.

6.3 Section 20 of the 2022 Act provides that proceedings are of a specified kind only if they are specified by regulations made by the Lord Chancellor with the concurrence of the Lord Chief Justice or the Senior President of Tribunals, as appropriate. The Online Procedure Rules (Specified Proceedings) Regulations 2025 are the relevant specifying regulations for the first stage of the OPR programme.

6.4 Section 22 establishes the Online Procedure Rule Committee. Section 23 sets out the Committee's powers, including powers to make different provision for different cases or circumstances, to apply or incorporate other procedural provision where appropriate, and to make provision by reference to practice directions. Section 26 sets out the procedure for making OPR, including consultation, signature by Committee members, submission to the Lord Chancellor and the making of the OPR by statutory instrument if allowed by the Lord Chancellor.

6.5 Schedule 3 to the 2022 Act makes provision about practice directions for OPR proceedings. It enables practice directions to be made for civil, family and tribunal OPR proceedings and enables such directions to supplement the OPR by dealing with detailed operational and procedural matters. Practice directions may therefore be used to set out the detailed possession process and to establish pilot schemes within the scope permitted by the OPR.

6.6 This instrument is the first exercise of the Online Procedure Rule Committee’s rule-making function. It establishes OPR and provides the procedural framework for their first intended application to possession proceedings. The OPR are intended to operate

coherently with the existing CPR framework, including through the commencement of paragraph 2 of Schedule 4 to the 2022 Act and related amendments to the CPR. That interaction is explained in further detail at paragraphs 4.6 and 4.7 above.

6.7 The combined effect of this instrument, the commencement instrument and the CPR amendment is that there will be a coherent procedural boundary between OPR and CPR. The OPR will govern the relevant online possession proceedings. The CPR will be disapplied by default for those proceedings but may still be applied expressly where the OPR framework decides that a CPR provision should continue to apply.

6.8 The instrument does not itself amend the CPR, FPR or TPR. Nor does it make any substantive change to the law of possession, landlord and tenant law, mortgage possession, financial remedies or court or tribunal jurisdiction. Its function is procedural: it determines how proceedings within its scope are to be conducted.

Why was this approach taken to change the law?

6.9 This is the only practicable approach to establishing the first legally effective OPR framework. The 2022 Act created a specific statutory mechanism for online procedure, a specific rule-making committee and a specific relationship between OPR, jurisdiction-specific rules and practice directions. The policy cannot be implemented simply by operational guidance or by amendments to an HMCTS digital service.

6.10 It would also be unsatisfactory to rely on amendments to the CPR alone. OPR are intended to be capable of operating across civil, family and tribunal proceedings and are designed around online process rather than around one existing procedural code. A framework of OPR rules, that can apply across all specified proceedings, provides a more coherent foundation for future development than a series of separate amendments to individual rule sets.

6.11 The use of OPR supplemented by practice directions and pilots is proportionate. It allows the first rules to be concise and stable while enabling more detailed procedural steps to be adapted as digital services develop. It also allows practical issues to be identified through pilots before any wider application of new online procedures.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Online Procedure Rule Committee carried out a public consultation on the draft Online Procedure (Core Rules and Pilot Schemes) Rules 2026. The consultation was published on GOV.UK and ran from 9.30 am on 4 December 2025 to 10.00 am on 15 January 2026. A summary of responses was published on the Committee's GOV.UK pages on 11 March 2026.

7.2 The Committee received 28 responses. Responses were submitted by members of the judiciary, legal representative bodies, advice sector organisations, service providers, public interest groups, ombudsman bodies, technology and online dispute resolution providers, user and consumer groups, and business organisations.

7.3 Respondents were broadly supportive of the purpose and direction of the draft OPR. In particular, respondents welcomed the development of a concise, principles-based procedural framework capable of supporting clear, accessible and proportionate online proceedings. Respondents also made detailed suggestions for improving clarity, usability and confidence in the OPR.

7.4 A significant theme was the relationship between OPR and existing jurisdiction-specific rules. Respondents asked for clearer explanation of how OPR will operate alongside the CPR, FPR and TPR, when those existing rules will continue to apply, and how users will be told which rules govern their proceedings. This has informed the redrafting of the application provisions and the explanation of the statutory carve-out from the CPR.

7.5 Respondents also commented on the structure and drafting style of the OPR. In particular, they emphasised the need to distinguish clearly between provisions that impose duties or procedural requirements and provisions that describe how an online process will operate. The draft OPR have therefore been reviewed to use mandatory language where a duty is intended, to avoid purely descriptive wording where it may cause uncertainty, and to use consistent terminology such as "proceedings", "parties", "the digital service" and "practice direction".

7.6 Accessibility and digital inclusion were strong themes. Respondents stressed the need for assisted-digital support, reasonable adjustments and clear routes for users who cannot access or use an online service, including workable non-electronic alternatives and safeguards where there are system outages or connectivity issues. The OPR and supporting materials have therefore been developed on the basis that digital procedure must remain fair and accessible and that the court or tribunal must retain powers to manage proceedings appropriately.

7.7 Respondents supported early and proportionate resolution of disputes but cautioned that some language could be read as requiring parties to settle rather than encouraging them to consider suitable resolution options. The drafting has been refined so that duties relating to cooperation, proportionality and early resolution sit within the broader objective of dealing with proceedings fairly and justly.

7.8 Respondents raised points about digital notifications, service, hearing formats, open justice, data standards, user testing, delegated functions and time calculation. Those points have informed the further development of the OPR, the possession practice direction and the design of user-facing guidance. Some matters are more appropriately dealt with in practice directions, service design or operational guidance rather than in the OPR themselves.

7.9 The main changes made following consultation include a clearer explanation of the application and legal effect of OPR, improved drafting to distinguish duties from explanatory material, greater emphasis on accessibility and non-electronic routes, clearer provision for pilot schemes, and closer alignment between the OPR, the possession practice direction and the CPR carve-out which will come into force when paragraph 2 of Schedule 4 to the 2022 Act is commenced.

8. Applicable Guidance

8.1 Guidance for users will be provided through HMCTS' online possession service and through the practice direction governing possession proceedings conducted under OPR. The practice direction and any associated user guidance will be published on GOV.UK, justice.gov.uk or another appropriate official online location at or before the OPR come into force for possession proceedings.

8.2 The guidance will explain, in user-facing language, which proceedings are covered by the online possession process, how a claim is started and responded to, how users receive notifications, how information and documents are provided, how fees and fee remissions (Help with Fees) are dealt with, what support is available, and what to do

if a user cannot use the digital service or experiences a system or connectivity problem.

8.3 The guidance will not replace the OPR or practice directions. Its purpose is to help users understand and comply with the procedural requirements that apply to their proceedings.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument. The instrument makes procedural rules governing the practice and procedure to be followed in specified court and tribunal proceedings. It does not, of itself, impose new substantive regulatory obligations on businesses, charities or voluntary bodies.

9.2 The OPR provide the legal framework within which online procedures may operate. Any operational impacts arising from the design, delivery or use of HMCTS digital services will be managed through the HMCTS reform, delivery and benefits-realisation processes rather than arising directly from the OPR themselves.

9.3 The instrument may affect parties and representatives who participate in OPR proceedings, including businesses and voluntary organisations where they are parties to possession proceedings. However, the impact is procedural rather than regulatory. The instrument changes how proceedings within scope are conducted; it does not change the substantive law governing entitlement to possession or the remedies available to parties.

Impact on businesses, charities and voluntary bodies

9.4 The instrument has no, or no significant, impact on businesses, charities or voluntary bodies. It does not create new duties or requirements for those sectors as sectors. It governs procedure where a person or organisation is a party to proceedings conducted under OPR.

9.5 The instrument does not have a significant impact on small or micro-businesses. Small landlords, managing agents or businesses occupying property may use or respond to online possession proceedings only where they are parties to proceedings within scope. The OPR are intended to support a clear, proportionate and accessible procedure rather than to impose additional regulatory burdens.

9.6 There is no, or no significant, impact on the public sector from the OPR themselves. HMCTS and the judiciary will operate the online possession service and the associated procedural framework as part of the ordinary administration of courts and tribunals. Any administrative or operational impacts are being managed through the relevant HMCTS programme arrangements.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The OPR will be kept under review by the Online Procedure Rule Committee. The Committee expects the OPR to develop over time as further online services are introduced, as pilot schemes are evaluated, and as feedback is received from users, the judiciary, HMCTS, legal representatives, advice organisations and other stakeholders.

10.2 The initial application to possession proceedings will be monitored through the operation of the HMCTS online possession service, court and tribunal feedback, user research, data about service use, and any issues identified by practitioners, advice providers and litigants in person. Pilot schemes made under the OPR will be capable of evaluation before decisions are taken about wider or permanent adoption.

10.3 The instrument does not include a statutory review clause. This is because the instrument makes procedural provision for court and tribunal proceedings and does not regulate business activity within the meaning of the Small Business, Enterprise and Employment Act 2015.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument is of special interest because it contains the first Online Procedure Rules made under the 2022 Act. It is the first use of the new rule-making framework for online proceedings and establishes the core rules from which future OPR practice and procedure may develop.

11.2 The instrument is also of special interest because its operation for civil proceedings is linked to the commencement of paragraph 2 of Schedule 4 to the 2022 Act and to related amendments to CPR Part 2. An accompanying commencement instrument will bring paragraph 2 of Schedule 4 fully into force. The Civil Procedure (Amendment) Rules 2026 make the corresponding CPR amendment, which comes into force on the date on which, and immediately after, that paragraph is commenced for all purposes.

11.3 The coordinated effect is to avoid parallel or overlapping procedural regimes. Once the relevant provisions are in force, proceedings governed by OPR will not also be governed by the CPR except to the extent that the OPR framework expressly provides.

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").