EXPLANATORY MEMORANDUM TO

THE CIVIL COURTS (AMENDMENT) ORDER 2013

2013 No. 415

and

THE ALLOCATION AND TRANSFER OF PROCEEDINGS (AMENDMENT) ORDER 2013

2013 No. 421

1. This explanatory memorandum has been prepared by The Ministry of Justice and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instruments

2.1 The purpose of these instruments is to close two county courts in England and Wales. The Civil Courts (Amendment) Order 2013 removes the requirement for a county court to be held in Burton-on-Trent and Trowbridge and removes civil and divorce jurisdiction from these courts. The Allocation and Transfer of Proceedings (Amendment) Order 2013 removes jurisdiction in family cases at Trowbridge County Court.

2.2 The Civil Courts (Amendment) Order 2013 also establishes a county court at Chippenham to be known as Chippenham and Trowbridge County Court. The Allocation and Transfer of Proceedings (Amendment) Order 2013 provides that Chippenham and Trowbridge County Court has jurisdiction to deal with family cases.

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

3.1 None.

4. Legislative Context

4.1 The Lord Chancellor's decisions on changes to the court estate in England and Wales were announced to Parliament by the Parliamentary Under-Secretary of State, Jonathan Djanogly, on 14 December 2010. Orders made since then have closed 46 county courts.

5. Territorial Extent and Application

5.1 These instruments apply to England and Wales.

6. European Convention on Human Rights

6.1 The Allocation and Transfer of Proceedings (Amendment) Order 2013 is subject to the negative resolution procedure. The Civil Courts (Amendment) Order 2013 is laid before each House of Parliament. Neither Order amends primary legislation and therefore no statement is required.

7. Policy background

7.1 As at June 2010 there were 530 courts across England and Wales, many of which had poor facilities and did not have sufficient workload to sustain them in the long term. In 2009-10 on average a county court courtroom was used for only 180 days of the year. In addition, many courts are located in close proximity to one another. The county court estate did not take into account demographic changes and improvements in personal mobility.

7.2 By closing courts that are underused, have poor facilities or are close to an alternative court with capacity to take additional work, the remaining county courts will be better placed to deliver justice. The county courts will cost the taxpayer less money to operate and resources will be targeted in a more focused way so that less money is spent on running and maintaining unnecessary buildings. This should leave more money to be invested in upgrading facilities, improving services and developing innovative ways to deal with cases to the benefit of those who use the courts and the community at large.

8. Consultation outcome

8.1 On 23 June 2010 the Lord Chancellor consulted on the provision of court services in England and Wales. Separate consultations were undertaken for 16 areas within England and Wales, which taken together proposed the closure of 103 magistrates' courts and 54 county courts.

8.2 Each consultation paper set out the national estates strategy, which comprises key principles, including: improve utilisation of the courts to at least 80%; ensure access to courts – enabling the majority of the public to be within a 60 minute commute of their nearest court by public transport; have specialist facilities in large strategic locations only and provide greater flexibility through co-location of criminal courts and civil courts with tribunal hearing centres.

8.3 The consultation papers went on to provide additional information on specific areas and courts to set out how the courts being consulted on fit or do not fit with the estates strategy and the likely costs and benefits of closure. The consultations period ran until 15 September 2010.

8.4 Across all HMCS areas over 2,500 responses were received. Consultees responded sometimes to the proposals on a national basis but more usually to proposals affecting individual areas or courts. Many of the consultation responses focused on the provision of local justice and the length and cost of travel to attend court. Estimates of the current and future location of courts indicate that, prior to closures, just under 90% of the population were within a 60 minute public transport journey of their nearest magistrates' or county court. Following all the proposed court closures that figure will reduce to around 85%.

8.5 Following the closure of the consultation period each proposal was analysed again against the principles of the national estates strategy and in light of the responses that were received. The Lord Chancellor announced in December 2010 his decision to close 92 magistrates' courts and 49 county courts and to retain ten magistrates' courts and five county courts.

8.6 A more detailed analysis of the consultation outcome is available in the response papers regarding the provision of court services in each of the 16 former HMCS Areas. The response papers can be found on the Ministry of Justice website at:

http://webarchive.nationalarchives.gov.uk/20110322191207/http://www.justice.gov.uk/consultations/consultations-closed-with-response.htm

9. Guidance

9.1. The nature of these orders makes it unnecessary to publish guidance in relation to them.

9.2 Court users in areas where a county court is to close will be informed in advance of the closure date by way of notices displayed at court. The Lord Chancellor has made Directions which set out the details of the localities affected by a county court closure and which court districts they will now come within. The Directions can be found on the Ministry of Justice website at:

http://www.justice.gov.uk/legislation/bills-and-acts/directions

10. Impact

10.1 Impact Assessments were prepared for each of the 16 area consultations. These identified some increase in the cost of travelling to court for some court users although there would be benefits due to the receiving courts generally providing a better and fuller range of facilities. Significant financial savings for HMCTS were also identified.

10.2 16 Equality Impact Assessments were also undertaken which showed that, overall, while some court users would be affected by longer journeys, the quality of facilities at remaining courts, including those for disabled court users and victims and witnesses, would be better than at closing courts.

11. Regulating small businesses

11.1 The legislation does not apply to small business.

12. Monitoring and review

12.1 The Ministry of Justice plans to conduct a Post Implementation Review to evaluate the changes to the provision of magistrates' and county court services in England and Wales. The Post Implementation Review will assess the impact of a reduced court estate on the public and the Justice System to inform potential future court estate strategy. Further detail can be found in the Impact Assessments accompanying each of the consultation response papers on the Departmental website at:

http://webarchive.nationalarchives.gov.uk/20110322191207/http://www.justice.gov.uk/consultations/consultations-closed-with-response.htm

13. Contact

13.1 Janet Raistrick at the Ministry of Justice Tel: 07846421023 or e-mail: janet.raistrick@hmcts.gsi.gov.uk can answer any queries regarding the instrument.