EXPLANATORY MEMORANDUM TO

THE CIVIL COURTS (AMENDMENT No. 2) ORDER 2016

2016 No. 1068

1. Introduction

1.1 This explanatory memorandum has been prepared by the Ministry of Justice (MoJ) in conjunction with HM Courts & Tribunals Service (HMCTS) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Civil Courts (Amendment No. 2) Order 2016 ("the 2016 Order") amends the Civil Courts Order 2014 (S.I. 2014/819) ("the 2014 Order") by removing references to those district registries of the High Court to be closed between 28th November 2016 and 13th February 2017 as a result of changes made to the court estate. The Order will come into force on the dates specified in the Order.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is not subject to any further Parliamentary procedure after laying, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 Both the 2014 and 2016 Orders are made under section 99(1) of the Senior Courts Act 1981 ('the 1981 Act'), the Lord Chief Justice having been consulted in accordance with that section, which provides that the Lord Chancellor may, by order, direct that there shall be district registries of the High Court at such places and for such districts as specified in the order.

4.2 A district registry is part of the High Court. District registries deal with High Court civil business and are situated in various locations in England and Wales. They are often co-located at County Court hearing centres. The locations and names of the district registries are specified in the first column of the Schedule to the 2014 Order. The district served by a district registry is defined by reference to the areas served by those corresponding County Court hearing centres specified in the second column of the Schedule to the 2014 Order. The 2014 Order does not determine the location of County Court hearing centres. Rather, Section 3 of the County Courts Act 1984 provides that the places at which the County Court sits (i.e. the places where County Court hearing centres are situated) are at the direction of the Lord Chancellor after consulting the Lord Chief Justice.

5. Extent and Territorial Application

5.1 The extent of this instrument is England and Wales.

5.2 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is not subject to any further Parliamentary procedure after laying and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 On 16 July 2015 the then Parliamentary under Secretary of State for Justice, Shailesh Vara, announced a consultation on proposals to close 91 courts and tribunals in England and Wales. These responses to the consultation document are included in the Response to the proposal on the provision of court and tribunal estate in England and Wales[1].

7.2 In a written Ministerial Statement dated 11 February 2016, the Government announced the outcome of the consultation, and its intention to close 86 of the 91 courts and tribunals. 64 sites will close as proposed in the consultation. A further 22 closures will take place but with changes to the original proposals. These changes, many suggested by respondents, include the identification of suitable alternative venues, such as local civic buildings; or different venues in the HMCTS estate to those originally proposed.

7.3 A district registry is part of the High Court situated in various district of England and Wales, dealing with High Court family and civil business in regional areas. District registries are often co-located at County Court hearing centres, when the district judge sitting there will case-manage High Court cases. The places where district registries are located are specified by the Lord Chancellor, in exercise of the power conferred by section 99(1) of the 1981 Act, having consulted with the Lord Chief Justice. As well as specifying the places where district registries shall be located, the 2014 Order identifies the district served by a district registry by reference to the areas served by one or more County Court hearing centres.

7.4 Under the court closure programme, a total of 18 district registries will be closed in tranches and two new district registries will open, through to September 2017, as detailed in the response to the proposal on the provision of court and tribunal estate in England and Wales led by HM Courts & Tribunal Service. The Civil Courts (Amendment) Order 2016 (S.I. 2016/974) concerned the first two tranches of such closures, including 6 district registries, and the opening of 2 new district Registries. This Order concerns the third and fourth of these tranches, namely the closing 4 further district registries.

7.5 As a consequence of these changes, it is necessary to remove from the 2014 Order references to those places where district registries were located, but which will closed

[1] Which is available at;
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/499518/national-consultation-document.pdf

and remove references to County Court hearing centres co-located with those district registries, or which have otherwise closed under the court closure program.

7.6 Accordingly, the 2016 Order amends the 2014 Order, first, by removing from the Schedule references to those 4 places served by district registries which will close and, secondly, by removing references to those County Court hearing centres which will also close including those which are co-located with district registries.

7.7 These changes are made in support of the implementation of the closures announced in February 2016. The decision was communicated widely at the time and local implementation groups are leading on communication with local stakeholders. The Practice direction – county court closures[2] is being followed which directs the closing and receiving courts of necessary actions including the transfer of work that are to be implemented commencing three months prior to the closure date.

7.8 A further series of County Court hearing centres and district registries will be closed in future tranches up to September 2017 requiring further consequential amendments to the 2014 Order. Further details of planned closure dates are contained in the Potential Implementation date document.[3]

Consolidation

7.9 The Department has no plans to consolidate any legislation as a result of this legislation.

8. Consultation outcome

8.1 The consultation lasted for twelve-weeks (16 July 2015 to 8 October 2015) and it invited comments from anyone with an interest in justice to ensure that courts and tribunals continue to be aligned to customer requirements, that communities continue to have access to court buildings where they need to attend or through alternative methods and that cases are heard in buildings with suitable facilities. Copies of the consultation paper were sent to:

- Judicial and legal bodies including the including the Senior Judiciary, the Council of HM Circuit Judges, the Association of District Judges, The Law Society, The Bar Council, and the Institute of Legal Executives.
- Consumer bodies, representative bodies and business organisations for example Civil Court Users Association, Police service, National Association of local Councils.

8.2 The consultation sought views on proposals to reduce surplus capacity by closing courts and tribunals that are unused or underused, or that are simply unsuitable for the services we need to deliver in future. To provide users with an overview of all proposed change to the estate, the consultation also included information on where we plan to relocate courts within the same town or city and where there is limited impact

[2] Which is available at; https://www.justice.gov.uk/courts/procedure-rules/civil/rules/county_court_closures

[3] Which are available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/547167/potential-implementation-dates.pdf

on service provision. We did not consult on our plans to integrate courts. Integration plans cover 31 buildings and updates are provided in each regional response.[4]

8.3 The consultation generated over 2,100 individual responses. In addition, 13 petitions were submitted containing approximately 10,000 signatures. The majority of the responses related to individual courts. In total, 110 responses were received that related specifically to the national consultation paper[5]. Of the overall responses, 15 were supportive of the closure proposals nationally and 39 had neutral views. The main themes were:

- the estate is underused and utilisation should be increased
- in the current financial climate it is important that efficiencies are made where possible, and
- we should explore new ways of delivering our services wherever possible.

56 responses were opposed to the closure proposals. The main themes were:

- Access to Justice (the availability and cost of transport to alternative venues), and,
- concerns over the accuracy of the data in the consultation document and Impact Assessment.

8.4 For each proposal in the consultation, consideration was given to access to justice, value for money and efficiency. For each location, consideration was given to whether the closure would still allow for effective access to justice, whether it offered a significant saving, and whether it would allow HM Courts & Tribunals Service to maintain high quality service provision. The decision was taken to close 86 court and tribunal buildings and retain five. 64 sites will close as proposed in the consultation, with a further 22 closures taking place but with changes to the original proposals, which include the establishment of suitable alternative venues.

9. Guidance

9.1 Information about the Order and the locations of courts and tribunals will be published on the MoJ, Judicial and HMCTS channels of the Government website, alerting the Judiciary, court staff and court users of the changes.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies as a result of this order.

10.2 These changes will have an impact on the public sector. The order is part of a broader court estate reform programme led by HM Courts & Tribunal Service. Ministers announced the Government's decision to close 86 courts and tribunals in February 2016. The court closures are expected to raise £40 million and to make savings of £27 million per year. A process of consultation has been undertaken at each affected site to determine the impact on staff, including those of protected characteristics, and identify suitable alternative roles for them post closure. It is expected that the

[4] Which are available at: https://www.gov.uk/government/consultations/proposal-on-the-provision-of-court-and-tribunal-estate-in-england-and-wales

[5] Which, again, is available at: https://www.gov.uk/government/consultations/proposal-on-the-provision-of-court-and-tribunal-estate-in-england-and-wales

overwhelming majority of those affected will be redeployed to a comparable role within HMCTS.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 We do not envisage that the Order will create significant additional workload for county court hearing centres text.

13. Contact

13.1 John Sweeney at the Estates Reform Project, HM Courts and Tribunal Service Telephone: 07500 066372 or email: john.sweeney3@hmcts.gsi.gov.uk can answer any queries regarding the instrument.