EXPLANATORY MEMORANDUM TO

THE CIVIL COURTS (AMENDMENT) ORDER 2019

2019 No. 889

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) Order 2019 ("the 2019 Order") amends the Civil Courts Order 2014 (S.I. 2014/819) ("the 2014 Order") by removing references to two district registries of the High Court, which, as a result of changes made to the court estate, have closed (in the case of Chichester) or (in the case of Colchester) will close on 30 April 2019.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The extent of this instrument is England and Wales.

4.2 This instrument applies to England.

5. European Convention on Human Rights

5.1 As the instrument is not subject to parliamentary procedure, no statement is required.

6. Legislative Context

6.1 Both the 2014 and 2019 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.

6.2 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.

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 districts 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 17 district registries will be closed in tranches and two new district registries will open, through to September 2019 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. The Civil Courts (Amendment No. 2) Order 2016 (S.I. 2016/1068) concerned the third and fourth tranches of such closures, including 4 further district registries. The Civil Courts (Amendment) Order 2017 concerned the fifth tranche of such closures including 5 further district registries. This Order concerns the sixth of these tranches, namely the closure of 2 further district registries.

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

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 close 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 2019 Order amends the 2014 Order, first, by removing from the Schedule references to those 2 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.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

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

10. Consultation outcome

10.1 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.

10.2 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

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.[3]

10.3 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[4]. 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.

10.4 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.

11. Guidance

11.1 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.

12. Impact

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

12.2 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 circa £40 million and to make savings of circa £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

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

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

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

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

13. Regulating small business

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

14. Monitoring & review

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

15. Contact

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