EXPLANATORY MEMORANDUM TO

THE CIVIL COURTS ORDER 2014

2014 No. 819

1. This explanatory memorandum has been prepared by the Ministry of Justice ("MoJ") and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument ("the 2014 Order") replaces the Civil Courts Order 1983 (S.I. 1983/713) ("the 1983 Order"). It specifies the locations and names of the district registries of the High Court in England and Wales as well as the district which each district registry serves. The Order will come into force on 22nd April 2014.

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

3.1 None.

4. Legislative Context

4.1 A district registry is part of the High Court. District registries are situated in various districts of England and Wales and are often co-located at county courts. The locations and names of the district registries were previously specified in the 1983 Order. The district served by each district registry was defined by reference to the area comprising the districts of particular county courts, again specified in the 1983 Order.

4.2 However, section 17 of, and Schedule 9 to the Crime and Courts Act 2013 (c.22) ("the 2013 act") amends the County Courts Act 1984 (c.28) to establish a single County Court for England and Wales, which replaces the structure of individual county courts for specific districts which previously exercised jurisdiction. Consequently, since the district served by each district registry can no longer be defined by reference to a particular county court or courts, in future, they will in be defined by reference to the areas served by particular hearing centres of the County Court, as specified in the 2014 Order. The locations of the district registries specified in the 1983 Order have not been changed by the 2014 Order and those County Court hearing centres which now define the district of each district registry correspond to the county courts which previously defined them.

4.3 The 2014 Order is made under section 99(1) of the Senior Courts Act 1981 (c.54), the Lord Chief Justice having been consulted in accordance with that section.

4.4 The 1983 Order also specified particular county courts which had jurisdiction in respect of proceedings under the Matrimonial and Family Proceedings Act 1984 (c.42), the Insolvency Act 1986 (c.45), the Race Relations Act 1976 (c.74), the Companies Act 2006 (c.46) and the Limited Liability Partnerships Act 2000 (c.12). However, following the implementation of both the single County Court and the family court, it is no longer necessary or possible to confer jurisdiction in this way. Accordingly, this Order makes no provision in this regard. In future, the Insolvency (Commencement of Proceedings) and Insolvency Rules 1986 (Amendment) Rules 2014 (SI 2014/817), will specify those hearing centres where proceedings under the Insolvency Act 1986 must be commenced and, for a period of time after the implementation of the single County Court,

proceedings under the Race Relations Act 1976 will continue to be heard in those hearing centres which correspond to the county courts previously designated for that purpose. This latter provision will be addressed in a consequential order made under the 2013 Act, namely the Crime and Courts Act 2013 (Consequential, Transitional and Saving Provisions) Order 2014 (SI 2014/820).

4.5 Although it replaces the 1983 Order, the 2014 Order does not revoke it. This is because the 2013 Act will repeal some of the relevant order making powers in primary legislation on the same date that the 1983 Order is revoked. On that basis, it is not possible to use those powers to revoke the 1983 Order, or the numerous amending orders, in their entirety. Instead, the 1983 Order will be revoked in the consequential order mentioned in paragraph 4.5, above.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why?***

7.1 The 2014 Order specifies the locations and names of the district registries of the High Court in England and Wales as well as the district which each district registry serves. It is made in consequence of the implementation of the single County Court.

7.2 In January 2008, the Judicial Executive Board, chaired by the then Lord Chief Justice, commissioned Sir Henry Brooke to conduct an inquiry into the question of civil court unification. In August 2008, following extensive consultation with the judiciary and Her Majesty's Courts and Tribunals Service ("HMCTS"), Sir Henry published his report, *Should the Civil Courts be Unified?*[1] In the report, Sir Henry did not recommend civil court unification, but instead made a number of recommendations to improve the administration of civil justice and to provide a more efficient use of judicial resources. A principal recommendation concerned giving consideration to establishing a single County Court, with a national jurisdiction, in England and Wales.

7.3 The judicial working group which subsequently considered the implications of implementing Sir Henry's recommendations supported the amalgamation of the separate, district-based, county courts.

7.4 The MoJ consulted on the recommendation in its twelve-week public consultation entitled: "*Solving disputes in the County Courts: creating a simpler, quicker and more proportionate system*[2], published in March 2011. 84% of respondents supported the establishment of a single County Court.

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[1]Which is available at: http://www.judiciary.gov.uk/publications-and-reports/reports/civil/civil-courts-unification

[2]CP6/2011, which is available at: http://webarchive.nationalarchives.gov.uk/20110406054056/http://www.justice.gov.uk/docs/solving-disputes-county-courts.pdf

7.5 On 9 February 2012, accompanied by a written ministerial statement (House of Commons, Official Report, column 53WS)[3], the Government published its response to the consultation (CM 8274)[4], announcing its intention to establish a single County Court.

- ***Consolidation***

7.6 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 (29 March 2011 to 30 June 2011) and copies of the consultation paper were sent to:

- **Judicial and legal bodies** 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 The County Court Users' Association, British Bankers Association, Confederation of British Industry, Finance and Leasing Association, The Trade Union Congress.

8.2 Responses were also welcomed from anyone with an interest or views on the proposals. Responses from individual practitioners, or members of the public were also sought.

8.3 The consultation paper posed the question: '*Do you agree that a single County Court should be established?*' A total of 161 respondents answered this question, of which 136 respondents agreed that a single County Court should be established, and 25 respondents disagreed.

8.4 The majority of the 136 respondents in favour of a single County Court measure were legal practitioners. Others in favour included members of the judiciary and judicial bodies such as the Association of District Judges and the Council of Circuit Judges, regulatory bodies such as the Law Society and the City of London Law Society, representative bodies such as the Civil Courts Users Association, Association of Personal Injury Lawyers and Forum of Insurance Lawyers, businesses representative bodies including the National Farmers Union and the Medical Defence Union, Local Authorities, Mediators and Mediation Advocates, Academics, Citizens Advice Bureaus, financial organisations such as the Institute of Credit Management and the Cooperative Financial Services, members of the public, and HMCTS.

8.5 In summary, the creation of a single County Court was supported by the majority of affected parties. The reasons given for support included that:

- There was no need to retain the geographical distinctions between courts in the present day and that the amalgamation of the County Court into a single entity could provide greater administrative efficiency and enable great improvements to the administration of justice.
- The current "geographical and jurisdictional boundaries create inefficiencies."
- The current system is archaic, unwieldy and expensive.
- Streamlining the system would lead to costs reductions.

[3] Which is available at: http://www.publications.parliament.uk/pa/cm201212/cmhansrd/chan264.pdf
[4] Which is available at: https://consult.justice.gov.uk/digital-communications/county_court_disputes/results/solving-disputes-in-cc-response.pdf

- The proposal was a sensible way of making best use of reduced resources by ensuring that work could be distributed throughout the County Court estate, thereby helping to reduce backlogs in some courts.
- The intended benefits of Business Centres are hampered by the need to maintain the individual jurisdictions of each County Court and that by having just one County Court; much of the current duplication could be removed.

8.6 The 24 respondents against the establishment of a single County Court included some legal practitioners, a Citizens Advice Bureau, and a landlord. The reasons given included that:

- The High Court and the County Court should be amalgamated to provide a single civil court instead of a single County Court.
- The idea of having a local court is important to litigants because justice is likely to be delivered more effectively.
- The current system works and a single County Court could be seen to reduce the importance of County Court.

8.7 Overall, the responses suggest that businesses and court users are supportive of the measures proposed, as are HMCTS and the judiciary.

9. Guidance

9.1 Information about the Order 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 An Impact Assessment has not been provided for this instrument. However, an Impact Assessment[5] (which was cleared by the Regulatory Policy Committee) and an Equality Impact Assessment[6] were published alongside the consultation paper and response document.

10.2 This instrument has no impact on the public sector.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 We do not envisage that the Order will create significant additional workload for County Courts.

[5] Which is available at: https://consult.justice.gov.uk/digitalcommunications/county_court_disputes/results/reforming-civil-jurisdiction-limits-response-ia.pdf

[6] Which is available at https://consult.justice.gov.uk/digitalcommunications/county_court_disputes/results/reforming-civil-jurisdiction-limits-response-eia.pdf

13. Contact

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