EXPLANATORY MEMORANDUM TO

THE CIVIL PROCEEDINGS FEES (AMENDMENT NO. 2) ORDER 2014

2014 No. 1834 (L. 27)

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 instrument

2.1 This instrument amends the current fees charged for civil proceedings in the courts of England and Wales, as set out in the Civil Proceedings Fees Order 2008 (the "2008 Civil Fees Order). These fees were last amended by the making of the Civil Proceedings Fees (Amendment) Order (S.I. 2014/874 L.17) 2014 (the "2014 Civil Fees Order"). However, this amendment order contained a small number of errors and omissions which this instrument will rectify.

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

3.1 None.

4. Legislative Context

4.1 The Civil Proceedings Fees (Amendment No.2) Order 2014 amends the Civil Proceedings Fees Order 2008 (S.I. 2008/1053 L.5).

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

7.1 On 1 April, the Civil Proceedings Fees (Amendment) Order 2014 (2014 Civil Fees Order) was laid, amending the 2008 Civil Fees Order to provide for the new fees to be paid in these proceedings. The purpose of these fee changes was to bring the fees payable in civil proceedings closer to full cost recovery. The new fees came into effect on 22 April 2014.

7.2 Unfortunately, the amendment order contained a small number of errors and omissions. This instrument is being made to rectify those errors and omissions.

7.3 This Order:

7.3.1 increases the fee for certain proceedings brought under the Companies Act 1986, the Companies Act 2006 and the Insolvency Act 1986 to the level required to achieve full cost recovery. This change was omitted from the 2014 Civil Fees Order;

7.3.2 aligns at the same level the fee charged for a warrant of control issued via the County Court Business Centre and via Money Claims Online. This was omitted from the 2014 Civil Fees Order;

7.3.3 corrects a reference to Scottish benefits legislation which applies for the purpose of determining entitlement to a fee remission.

8. Consultation outcome

8.1 The Lord Chancellor has consulted the judicial statutory consultees. They had no observations to make on these changes. There has been no general public consultation on these Orders because most of these changes were included in the original consultation proposals on which the Lord Chancellor consulted in December 2013.[1]

9. Guidance

9.1 Her Majesty's Courts and Tribunal Service will update its guidance on fees payable in line with these amendments. Forms and leaflets will also be amended to reflect the changes.

10. Impact

10.1 Some of the proceedings to which these fees apply may be brought by businesses, charities and voluntary bodies. The impact on these sectors is expected to be minimal

10.2 Some of the proceedings to which these fees apply may be brought by public sector organisations. The impact on the public sector is expected to be minimal.

10.3 An Impact Assessment has not been prepared for this instrument because they are only expected to have a minimal impact, and were considered in the Impact Assessment accompanying the Civil Proceedings Fees (Amendment) Order 2014.[2]

[1] See: https://consult.justice.gov.uk/digital-communications/court-fees-proposals-for-reform
[2] See: http://www.legislation.gov.uk/uksi/2014/874/impacts

11. Regulating small business

11.1 The Civil Proceedings Fees (Amendment No.2) Order 2014 will impact on small businesses that use the courts, for example, by increasing the fee to file for bankruptcy. The overall impact of the changes to fees, including the impact on small businesses, was set out in the Impact Assessment attached to the 2014 Civil Fees Order (SI 2014/874). The impact on small businesses of the amendments in these Orders is expected to be minimal.

12. Monitoring & review

12.1 Fees and the impact of any changes are constantly monitored by way of feedback from courts and their customers and the monitoring of fee income and volumes.

13. Contact

Bill Dowse at the Ministry of Justice Tel: 020 3334 6099 or email: bill.dowse@justice,.gsi.gov.uk can answer any queries regarding the instrument.