EXPLANATORY MEMORANDUM TO

THE CIVIL PROCEEDINGS FEES (AMENDMENT NO. 3) ORDER 2014

2014 No. 2059 (L. 29)

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument corrects an error in the Civil Proceedings Fees (Amendment No. 2) Order 2014 (S.I. 2014/1834 L.27), which was laid on 14 July and comes into force on 4 August.

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

3.1 This instrument breaches the 21 day rule. The Ministry deeply regrets this and apologises to the Committee. However, it is essential that the mistake is corrected with immediate effect on 4 August in order to prevent a significant financial loss for HMCTS.

4. Legislative Context

4.1 Article 3(b) of the Civil Proceedings Fees (Amendment No. 2) Order 2014 incorrectly amended fee 8.1 in the Schedule to the 2008 fees order, by reducing a wider range of enforcement fees from £100 to £70 than had been intended. The No.3 Order comes into effect at the same time as the incorrect amendment would have done, and therefore supersedes it.

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 14 July the Civil Proceedings Fees (Amendment No. 2) Order 2014 (S.I. 2014/1834 L.27) was laid which sought to make a small number of corrections to the fees charged in civil and family proceedings. One of the changes this intended to make was to

align the fee for an application for a warrant of control made via the Money Claims Online website with the fee charged for those applying to the County Court Business Centre. The intention was that those making applications for warrants of control electronically should pay the same fee of £70.

7.2 Unfortunately, after the statutory instrument was laid, we noticed that the wording of article 3(b) would have had the result that the lower fee applied to all applications for warrants of control, and not just those applied for electronically, leading to a greater reduction in income for HMCTS than planned. This statutory instrument corrects that error.

8. Consultation outcome

8.1 The Lord Chancellor has consulted the judicial statutory consultees in accordance with section 92 (5) and (6) of the Courts Act 2003. There has been no general public consultation on this Order because the original intention to align the Money Claims Online and County Court Business Centre fee (which this Order restores) was included in the original 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.

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]

11. Regulating small business

11.1 The Civil Proceedings Fees (Amendment No. 3) 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 Civil Proceedings Fees (Amendment) Order 2014 (S.I. 2014/874). The impact on small businesses of the amendments in these Orders is expected to be minimal.

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[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

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.