EXPLANATORY MEMORANDUM TO

THE COURTS BOARDS AREAS (AMENDMENT) ORDER 2009

2009 No. 3184

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 order realigns statutory Courts Boards areas with newly created administrative areas in Her Majesty's Court Service so that the relevant Courts Boards are more able to perform their prime role of advising and helping Area Directors.

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

3.1 None

4. Legislative Context

4.1 The Courts Boards Areas Order 2004 specified the areas of England and Wales for which there is a Courts Board. That order was made by the Lord Chancellor under section 4 of the Courts Act 2003. This Order, which is made by the Lord Chancellor in accordance with powers in section 4(4) of the Courts Act, amends the schedule to the 2004 Order to specify certain new Courts Boards areas. In accordance with section 4(6) of the Courts Act 2003 the Lord Chancellor has consulted the Lord Chief Justice and those Courts Boards which will be affected by this Order.

5. Territorial Extent and Application

5.1 The Order 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 role of the Courts Boards is to work in partnership with HMCS to achieve effective and efficient administration of the courts by giving advice and making constructive recommendations to foster improvements in the administrative services provided. Each Courts Board works with the Area Director to achieve this.

7.2 There were a number of key important drivers to HMCS to proceed with its proposals to restructure its own administrative areas. These were:

- Budgetary pressures, which requires HMCS to reduce its costs.
- Efficiency agenda, which requires HMCS to examine, among other things, the scale of its management overheads and their added value, and to put funds, wherever possible, into front line services in the courts.
  HMCS' Business Strategy, which requires substantial changes to its services, to bring about improvements to its administration, buildings and technology.

7.3 The new HMCS administrative structure that has come into effect reduced the number of areas from 23 to 19, reducing the number of Area Directors accordingly. It is important that an appropriate and complementary Courts Boards area structure is established.

7.4 The South West Region restructuring has created two administrative areas (previously 4). They are:

- Avon & Somerset, Devon & Cornwall and Gloucestershire and
- Dorset, Hampshire and the Isle of Wight and Wiltshire.

The South East Region restructuring has created three administrative areas (previously 5). They are:

- Bedfordshire, Hertfordshire & Thames Valley;
- Cambridgeshire, Essex, Norfolk & Suffolk; and
- Kent, Surrey & Sussex.

8. Consultation outcome

8.1 The Lord Chancellor has the power under section 4 of the Courts Act 2003 to make orders altering Courts Board areas but it must consult Courts Boards affected by the proposed order before doing so.

8.2 A consultation exercise took place in both the South East and South West with all the stakeholders including Courts Boards' members.

8.3 Whilst accepting the principle of administrative area restructuring, the main concern for Courts Boards members was that an increase in the size of areas would impair their ability to represent local needs. There was therefore a need to expand membership to ensure continued effectiveness across the larger areas. The Lord Chancellor agreed to increase the membership of the 5 new Courts Boards to 10 to enhance representation.

9. Guidance

9.1 The nature of these regulations makes it inappropriate to publish guidance in relation to them.

10. Impact

10.1 The impact of the regulations on (1) business and (2) charities or voluntary bodies is none. The impact on the public sector is not likely to be significant. Each Courts Board has two community representatives appointed by the Lord Chancellor after an open recruitment campaign, but there is no impact on the general public. In

light of this, it is not considered appropriate for an Impact Assessment to be prepared in relation to the regulations.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 This order only deals with the area that the Courts Boards will cover following HMCS area restructuring. Therefore there is no intention to monitor and/or review.

13. Contact

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