EXPLANATORY MEMORANDUM TO

THE FAMILY PROCEEDINGS FEES (AMENDMENT NO. 2) ORDER 2015

2015 No. 1419 (L. 14)

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 instruments

2.1 This instrument specifically seeks to exempt applications for Female Genital Mutilation Protection Orders ("FGMPOs") from court fees.

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

3.1 None.

4. Legislative Context

4.1 This instrument amends the Family Proceedings Fees Order 2008 (S.I. 2008/1054) (the "2008 Order"). This order was last amended by the Family Proceedings Fees (Amendment) Order 2015 (S.I. 2015/687 L.10) (the "2015 Order").

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 During the Parliamentary passage of the Serious Crime Act 2015 a provision was inserted to introduce FGMPOs by amending the Female Genital Mutilation Act 2003. The provision will come into effect on 17 July 2015 and people will be able to apply for FGMPOs from that date.

7.2 The Family Proceedings Fees (Amendment) Order 2014 (S.I. 2014/877 L.20) and later the 2015 Order removed the requirement for those applying for domestic violence related orders to pay court fees. This extended to those applying for Forced Marriage Protection Orders given that applicants are likely to be in an equally vulnerable position. The Government believes that the same policy

rationale of assisting potentially vulnerable victims at a time of distress also extends to those applying for FGMPOs and therefore is removing fees for the applicant in respect of both the original application and any subsequent applications (by the original applicant) within proceedings to vary or set aside an order.

7.3 In line with the policy rationale as previously applied in the case of other domestic violence related applications the exemption does not apply where a subsequent application within proceedings is made by the person causing the risk.

8. Consultation outcome

8.1 There has been no specific public consultation on this Order, however, the principle of exempting applicants in domestic violence related family proceedings from fees was consulted on as part of a larger consultation exercise undertaken by the Ministry of Justice in December 2013[1], with a majority of respondents agreeing with the proposal.

8.2 The Lord Chancellor has consulted the Lord Chief Justice, the Master of the Rolls, the President of the Queen's Bench Division, the President of the Family Division, the Chancellor of the High Court, the Head of Civil Justice, the Deputy Head of Civil Justice and the Civil Justice Council ("the statutory consultees") in accordance with section 92(5) and (6) of the Courts Act 2003. They responded indicating their agreement to the proposal not to charge fees in these circumstances.

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 An Impact Assessment has not been prepared for these instruments because they are only expected to have a minimal impact. Our initial assessment is that there will be no more than 12 FGMPO applications per year. .

10.2 As this Order amends certain fees payable in family proceedings, there will be no impact on businesses, voluntary organisations or public bodies.

[1] See: https://consult.justice.gov.uk/digital-communications/court-fees-proposals-for-reform

11. Regulating small business

11.1 The legislation does not apply to small business. It applies only to individuals or Local Authorities applying for an FGMPO.

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.