EXPLANATORY MEMORANDUM TO
THE LOCAL JUSTICE AREAS ORDER (No. 2) 2011

2011 No. 1708

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 England and Wales is divided into areas known as Local Justice Areas ("LJAs"). LJAs provide the basic administrative groupings of lay justices and all lay justices are assigned to an LJA. The Courts Act 2003 confers powers on the Lord Chancellor to make orders altering LJAs and, following appropriate consultation, this Order does so.

2.2 The Order combines three LJAs in Wales (Miskin, Merthyr Tydfil and Cynon Valley) to create a single LJA to be known as Glamorgan Valleys. The new area comes into being on 1st January 2012, and transitional provisions enable the justices to meet and take various steps, such as electing officers in advance so as to be fully functional on 1st January 2012.

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

3.1 None.

4. Legislative Context

4.1 The Lord Chancellor's decisions on changes to the court estate and the merger of LJAs in England and Wales were announced to Parliament by the Parliamentary Under-Secretary of State, Jonathan Djanogly, on 14th December 2010.

4.2 Following these decisions, the Local Justice Area Order 2011 (S.I. 2011/1168), provides for a number of LJAs to be merged across England and Wales and for new LJAs to be created in January 2012.

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 While the boundaries and numbers of LJAs have been changed over the years, this has been without reference to a wider picture of service provision. In the summer of 2010, a consultation on court services in England and Wales provided the opportunity also to consult upon and to consider the structure of LJAs and whether their size and number was commensurate with the number, location and workload of magistrates' courts and whether the current LJA structure would be more administratively efficient by being comprised of fewer, larger areas. The proposal to merge the three LJAs that are the subject of this Order was consulted on after the national consultation following further consideration of the bench and LJA structure in that part of Wales by Her Majesty's Courts and Tribunals Service ("HMCTS") and the magistracy.

7.2 The objective of the merger of LJAs is to achieve greater effectiveness and economy in the arrangements for supporting the work of lay justices. A smaller administrative resource will be required to support fewer benches, for example in organising bench meetings. It also promotes the aim of ensuring that the number and size of benches are more reflective of the level of workload in each LJA. Combining smaller benches into larger ones also facilitates more flexible use of the differing skills and experience of lay justices.

8. Consultation outcome

8.1 Under the Courts Act 2003 the Lord Chancellor must consult the Lord Chief Justice (or his nominee), the justices of the peace assigned to the affected LJAs, any courts board[1] whose area includes the local justice area or part of the local justice area, and any local authorities whose area includes the local justice area. Local authorities include any local council and any police authority for the areas concerned.

8.2 A consultation was undertaken by HMCTS on a proposal to combine three LJAs in South Wales: Merthyr Tydfil, Cynon Valley and Miskin, to create a single LJA to be known as the Glamorgan Valleys LJA. The consultation took place for 6 weeks during May and June 2011.

8.3 The consultation received seven responses, which included responses from the Cynon Valley, Merthyr Tydfil and Miskin Bench Chairmen

[1] Courts boards, which are established under section 4 of the Courts Act 2003 (c. 39), have a duty to scrutinise, review and to make recommendations about the way in which the Lord Chancellor is discharging his general duty in relation to the courts with which the board is concerned.

on behalf of their benches. All three benches voted in favour of the single LJA. Cynon Valley and Miskin unanimously voted for a Glamorgan Valleys LJA. In Merthyr Tydfil the position was that the bench voted "almost unanimously" in favour of the one LJA. Other responses were also broadly positive. The Presiding Judges for Wales indicated their support given that the three benches support the formation of a single bench.

8.4 There were some concerns raised regarding the delivery of local justice and the increased travelling time and cost for magistrates. However there have been many events and meetings where magistrates from across the area have successfully worked together on training courses and court sessions. Magistrates from the area are aware of local issues and HMCTS does not believe that local justice will be undermined. Court business will continue to be dealt with by magistrates who have knowledge of the localities from which cases have come from and an understanding of key community issues. Magistrates and staff will not face significant increases in travelling time and costs as a consequence of the bench merger. For shadow bench meetings held prior to the creation of the Glamorgan Valleys local justice area it is planned that a convenient venue, equidistant from Aberdare, Merthyr Tydfil and Pontypridd will be used.

9. Guidance

9.1. None required.

10. Impact

10.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

11. Regulating small businesses

11.1 The legislation does not apply to small business.

12. Monitoring and review

12.1 Management of the merged Bench is undertaken by the Justice's Clerk. The Justice's Clerk, in consultation with the HMCTS Delivery Director and the Bench Chair, will monitor and review the effects of the merger as appropriate.

13. Contact

13.1 Lee Howse at the Ministry of Justice Tel: 0203 334 6298 or e-mail: lee.howse@hmcts.gsi.gov.uk can answer any queries regarding the instrument.