EXPLANATORY MEMORANDUM TO

THE LOCAL JUSTICE AREAS ORDER 2011

2011 No. 1168

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). Once appointed, lay justices are assigned to LJAs. Therefore LJAs not only guide where magistrates' court cases are heard but they also provide the basic administrative groupings of lay justices. The Courts Act 2003 confers powers on the Lord Chancellor to make orders altering LJAs and, following appropriate consultation, this Order does so. In view of the large number of alterations, the Order substitutes a revised schedule of LJAs into the Local Justice Areas Order 2005 (S.I. 2005/554).

2.2 Each of the alterations to Local Justice Areas, including the names of newly combined areas, is set out in the Order. The new areas come into being on 1st January 2012, and transitional provisions enable the justices to meet and take various steps, such as electing chairmen 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 There are no specific legislative considerations.

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. The 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.

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 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 Accordingly, consultations were undertaken by Her Majesty's Court Service about alteration of LJAs as part of, and then following (in the case of police authorities), a wider consultation on the provision of court services in each of the 16 HMCS Areas at that time, including proposals on court closures. The main consultation took place for 12 weeks from September to December 2010 and the subsequent consultation with police authorities took place over five weeks during March and April 2011.

8.3 Consultation responses tended to focus on a concern that larger areas and benches will mean a loss of understanding of and connection with communities and that the local knowledge of magistrates will be lost if sitting across a larger geographical area. However, currently even the smallest LJA is likely to cover a large geographical area containing many communities. Even where LJAs combine, the bench system continues to facilitate the sharing of local knowledge between lay justices.

8.4 A number of consultees expressed concern that due to administrative boundaries people would be required to attend courts that aren't necessarily their closest. The Ministry recognises that LJA boundaries

should be reconsidered and where appropriate adjusted to better reflect the requirements of the communities that the courts serve. However, the Lord Chancellor is content that the general approach of having fewer LJAs is the right one.

8.5 A more detailed analysis of the consultation outcome is available in the response papers regarding the provision of court services in each of the 16 HMCS Areas. The response papers can be found on the Ministry of Justice website at:

http://webarchive.nationalarchives.gov.uk/20110322191207/http://www.justice.gov.uk/consultations/consultations-closed-with-response.htm

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 The Ministry of Justice plans to conduct a Post Implementation Review to evaluate the changes to the provision of magistrates' and county court services in England and Wales. The Post Implementation Review will assess the impact of a reduced court estate on the public and the Criminal Justice System to inform potential future court estate strategy. Further detail can be found in the Impact Assessments accompanying each of the consultation response papers on the Departmental website at:

http://webarchive.nationalarchives.gov.uk/20110322191207/http://www.justice.gov.uk/consultations/consultations-closed-with-response.htm

13. Contact

13.1 Lee Howse at the Ministry of Justice Tel: 020 334 6298 or e-mail: lee.howse@hmcourts-service.gsi.gov.uk can answer any queries regarding the instrument.