EXPLANATORY MEMORANDUM TO

THE LONDON INSOLVENCY DISTRICT (COUNTY COURT AT CENTRAL LONDON) ORDER 2014

2014 No. 818

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills 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 The primary purpose of the instrument is to set down which hearing centres of the new single County Court are included in the London Insolvency District for the purposes of insolvency jurisdiction. This follows from the Ministry of Justice's changes to the county court regime in England and Wales being introduced by section 17 and Schedule 9 of the Crime and Courts Act 2013 and will be enacted on 22 April 2014. That Act amends the County Courts Act 1984 replacing the local county courts in England and Wales with a single unified County Court. Consequential amendments will also be made to the Insolvency Rules 1986 by the Insolvency (Commencement of Proceedings) and Insolvency Rules 1986 (Amendment) Rules 2014. In addition, in order to reflect the changes, the Civil Courts Order 1983, which previously specified those county courts which had jurisdiction to hear insolvency proceedings, will be revoked and replaced by the Civil Courts Order 2014 (SI 2014/819).

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

3.1 None

4. Legislative Context

4.1 The London Insolvency District (Central London County Court) Order 2011 conferred jurisdiction on the Central London County Court and brought jurisdiction for insolvency proceedings in relation to individuals residing or carrying on business in the London area into line with the rest of England and Wales. This order makes the necessary changes to reflect the introduction of the single County Court from 22nd April 2014.

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 The new rules about where insolvency cases can be commenced and the amendments to the Insolvency Rules 1986 (SI 1986/1925) ("the Rules") are being carried out as a result of the implementation, on 22 April 2014, of section 17 of, and Schedule 9 to, the Crime and Courts Act 2013 which establishes a single County Court for England and Wales.

7.2 In January 2008, the Judicial Executive Board, chaired by the then Lord Chief Justice, commissioned Sir Henry Brooke to conduct an inquiry into the question of civil court unification. In August 2008, following extensive consultation with the judiciary and Her Majesty's Courts and Tribunals Service (HMCTS), Sir Henry published his report, *Should the Civil Courts be Unified?*[1] In the report, Sir Henry did not recommend civil court unification, but instead made a number of recommendations to improve the administration of civil justice and to provide a more efficient use of judicial resources. A principal recommendation concerned giving consideration to establishing a single County Court, with a national jurisdiction, in England and Wales.

7.3. The judicial working group which subsequently considered the implications of implementing Sir Henry's recommendations supported the amalgamation of the separate, district-based, county courts.

7.4. The MoJ consulted on the recommendation in its twelve-week public consultation entitled: "*Solving disputes in the County Courts: creating a simpler, quicker and more proportionate system"*[2], published in March 2011. 84% of respondents supported the establishment of a single County Court.

7.5. On 9 February 2012, accompanied by a written ministerial statement (House of Commons, Official Report, column 53WS)[3], the Government published its response to the consultation (CM 8274)[4], announcing its intention to establish a

[1]Which is available at: http://www.judiciary.gov.uk/publications-and-reports/reports/civil/civil-courts-unification
[2]CP6/2011, which is available at: http://webarchive.nationalarchives.gov.uk/20110406054056/http://www.justice.gov.uk/docs/solving-disputes-county-courts.pdf
[3] Which is available at: http://www.publications.parliament.uk/pa/cm201212/cmhansrd/chan264.pdf
[4] Which is available at: https://consult.justice.gov.uk/digital-communications/county_court_disputes/results/solving-disputes-in-cc-response.pdf

single County Court. Section 17 of, and Schedule 9 to the Crime and Courts Act 2013 accordingly establishes a single County Court for England and Wales.

7.6 This has led to the need to update the London Insolvency District Order to reflect the single County Court system.

- Consolidation

7.7 None

8. Consultation outcome

8.1 The consultation lasted for twelve-weeks (29 March 2011 to 30 June 2011) and copies of the consultation paper were sent to judicial and legal bodies, consumer bodies, representative bodies and business organisations. Responses were also welcomed from anyone with an interest or views on the proposals. Responses from individual practitioners, or members of the public were also sought.

8.2 The consultation paper posed the question: '*Do you agree that a single County Court should be established?*' A total of 161 respondents answered this question, of which 136 respondents agreed that a single County Court should be established, and 25 respondents disagreed. In summary, the creation of a single County Court was supported by the majority of affected parties. The reasons given for support included that there was no need to retain the geographical distinctions between courts in the present day; that the amalgamation of the County Court into a single entity could provide greater administrative efficiency and enable great improvements to the administration of justice; and that the current "geographical and jurisdictional boundaries create inefficiencies".

8.3 Overall, the responses suggest that businesses and court users are supportive of the measures proposed, as are HMCTS and the judiciary.

9. Guidance

9.1 This instrument will be of interest to debtors and creditors affected by the commencement of insolvency proceedings in the County Court, and also for Insolvency Practitioners and lawyers. The Insolvency Service will publish details of the changes on its website. HM Court and Tribunals Service will also publish guidance to staff and court users and the Ministry of Justice will place information on the Judicial and Ministry of Justice channels of the government website.

10. Impact

10.1 An Impact Assessment has not been provided for this instrument. However, the Ministry of Justice published an Impact Assessment and Equality Impact Assessment alongside its consultation paper and response document for the single County Court. The Impact Assessment were cleared by the Regulatory Policy Committee

10.2 There will be little or no financial impact on business.

10.3 There is little or no impact on charities and voluntary bodies. Those who assist debtors in petitioning for their own bankruptcy will see no changes in the advice they need to give with regards to the location of the Hearing Centre in which the petition should be made or where the hearing will be.

10.4 The impact on the public sector is also minimal.

11. Regulating small business

11.1 The instrument does not impose any additional regulation on small business.

12. Monitoring & review

12.1 The effect of introducing the single County Court and consequently, the new London Insolvency District (County Court at Central London) Order will be the subject of review and monitoring by the Ministry of Justice.

13. Contact

Any queries in relation to London Insolvency District (County Court at Central London) Order 2014 should be referred to Rhiannon Lawson at the Insolvency Service (Tel: 020 7637 6507 or e-mail: Rhiannon.Lawson@insolvency.gsi.gov.uk)