EXPLANATORY MEMORANDUM TO

THE MAGISTRATES' COURTS FEES (AMENDMENT) ORDER 2006

2006 No. 715

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This Order amends the Magistrates' Courts Fees Order 2005 [SI 2005/3444] and also amends the Schedule to the Fees Order to provide for one new fee which applies on an application to vary, extend or revoke an order made in family proceedings.

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

3.1 There are no matters of special interest to the Joint Committee.

4. Legislative background

4.1 Section 92 of the Courts Act 2003 provides the Lord Chancellor with a single fee setting power, with Treasury consent, to prescribe the fees payable in respect of anything dealt with in the Supreme Court, county courts and magistrates' courts.

5. Extent

5.1 This fees order only extends to courts within 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 amendments proposed are minor, and should not particularly affect any specific groups leading to any additional costs or savings. The majority of these changes are made to confirm current practices and instructions already in the courts.

7.2 Fee 4 is amended to refer to the Register of Judgements, Orders and Fines Regulations 2005 and replaces the Register of Fines Regulations 2003. The amount of the new fee, £15 is the same as the amount of the fee being replaced.

7.3 The Magistrates' Courts Fees Order 2005 omitted to provide for varying, revoking or discharging maintenance orders other than those made under the Children Act 1989, and as such a new fee of £20 is inserted as fee 15. The fee

remains the same as previously listed in Part 1 of Schedule 6 to the Magistrates' Court Act 1980.

7.4 Fee 5 is amended to insert a sub-heading before fees 5.2 to 5.4. Fee 5.2 is amended so that it applies to a complaint (or application) and the issue of a warrant without a summons and fee 5.3 is amended so that it applies on the issue of a warrant if a summons is not obeyed.

7.5 Fee 9.1 is amended to clarify that a separate fee is payable for each child in respect of which an application is made.

7.6 Fee 10 is amended to mirror what is contained in the Family Proceedings Fees (Amendment) Order 2005 in order to harmonise practice. The effect of this amendment is that only one fee will be charged in certain circumstances.

7.7 Fee 13.1 is amended to clarify that the fee is payable in relation to applications to vary or revoke an order made under the Adoption and Children Act 2002.

8. Impact

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

8.2 There is no impact on the public sector.

9. Contact

9.1 Cara Mitchell-Langford, Civil Law and Justice Division, Her Majesty's Courts Service, telephone: 020 7210 8979 can answer any queries regarding the instrument.