EXPLANATORY MEMORANDUM TO

THE SENIOR COURTS (TRANSFER, AMENDMENT AND CONSEQUENTIAL PROVISION) ORDER 2026

2026 No. 723

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments. The Order amends primary legislation. It updates the names of the High Court Divisions and Judicial Office Holder posts referenced in the legislation. Changes to primary legislation are set out in Schedule 1, and are made under the power conferred by the Senior Courts Act 1981. The Order also relates to The Civil Procedure (Amendment No. 2) Rules 2026, which have not yet been made as they are dependent on this Order, and which will update the Civil Procedure Rules to reflect the new names and structure of the Divisions of the High Court. The Civil Procedure (Amendment No 2) Rules 2026 are intended, once made, to come into force on the same day as this Order on 1 October 2026.

2. Declaration

2.1 The Rt Hon. David Lammy MP, Lord Chancellor and Secretary of State for Justice at the Ministry of Justice confirms that this Explanatory Memorandum meets the required standard.

2.2 Sally Parkinson, Director for Judicial and Legal Services Policy, at the Ministry of Justice confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Rebecca Heywood at the Ministry of Justice can be contacted by email at the following address with any queries regarding the instrument: judicialpolicycorrespondence@justice.gov.uk. Alternatively, the department can be contacted by telephone: 0203 334 3555

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Order makes structural changes to the Divisions of the High Court. The newly named Business and Property Division brings together the separate courts and lists that deal with business, commercial, property, technology, patent and high value disputes or intellectual property matters that currently sit across the Chancery Division and the King's Bench Division of the High Court of England and Wales. The Order moves the Admiralty Court and Commercial Court currently in the King's Bench Division into the Chancery Division, which is renamed the Business and Property Division. The Business and Property Division will be led by the Chancellor of the High Court, whose office is renamed as President of the Business and Property Division. Schedules to the Order set out where references to "Chancery" and "Chancellor of the High Court" are amended in primary and secondary legislation.

This includes updating references to Judicial Office Holders in the Chancery to the Business and Property naming convention.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales.

5. Policy Context

What is being done and why?

5.1 The Judiciary have proposed to modernise the structure of the High Court.

5.2 "The Business and Property Courts" are a collection of specialist civil courts which deal with high-value, complex and often international disputes, including commercial, business, property, technology, construction and intellectual property cases. These courts play a significant role in supporting the UK's legal services sector and wider economy, with a substantial proportion of cases involving international parties. Currently these courts sit across the King's Bench and the Chancery Divisions.

5.3 To modernise the structure of the High Court, the "Business and Property Courts" are brought together in a single Division, which replaces the existing Chancery Division and sits alongside the King's Bench and Family Divisions.

5.4 The changes to the divisional structure are expected to have four key benefits:

5.5 Support economic growth: the "Business and Property Courts" have a strong international reputation, which attracts substantial investment. Bringing these courts together enhances their profile and appeal.

5.6 Improve Access to Justice: Renaming provides a clear, modern description to replace the Chancery name which can be unclear to international court users. Bringing these courts together into one Division also makes it easier for court users to know where to bring a claim.

5.7 Strengthen Judicial Governance: Currently, the Heads of Division have overlapping responsibility for the "Business and Property Courts". This change streamlines judicial governance and increases efficiency.

5.8 Finally, the changes support flexible deployment, which is a judicial function and so independent of government. The senior judiciary will offer judges in the new Business and Property Division the opportunity to sit across a broader range of jurisdictions.

What was the previous policy, how is this different?

5.9 This Order changes the organisation and structure of the High Court in England and Wales. Paragraph 5.2 sets out the current structure of the "Business and Property Courts" in the Court.

6. Legislative and Legal Context

How has the law changed?

6.1 This Order is made under the power in section 7(1) of the Senior Courts Act 1981; this is a power to make certain structural changes to the Divisions of the High Court by Order in Council, on the recommendation of the Lord Chancellor and the senior

judiciary. Section 5 of the Senior Courts Act 1981 sets out the three Divisions of the High Court, and the courts that sit within these divisions. The Order transfers courts into the Chancery Division, changes the name of the Chancery Division to the Business and Property Division, and the name of Chancellor of the High Court to President of the Business and Property Division. The terms "Chancery" and "Chancellor of the High Court" are set out in other primary and secondary legislation which are updated with the new names in consequence of the changes. Specifically:

6.2 This Order transfers the Admiralty Court and Commercial Court from the King's Bench Division of the High Court, to the Chancery Division. This Order renames the "Chancery Division" as the "Business and Property Division" in consequence of this transfer.

6.3 Article 2 of this Order amends the Senior Courts Act 1981 to effect the transfer and renaming.

6.4 Articles 3 and 4 give effect to the Schedules, which contain amendments to primary and secondary legislation in consequence of the transfer and renaming by Article 2.

Why was this approach taken to change the law?

6.5 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 There was no formal consultation as the Order effects a change in organisation and structure in the High Court of England and Wales. Informal consultation was carried out with the Judiciary, affected staff and interested stakeholders in the legal sector.

8. Applicable Guidance

8.1 This SI does not require any applicable guidance.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the changes relate to the structure and organisation of the High Court of England and Wales. The Order does not change the work or practices of the "Business and Property courts", nor does it impact the work, conditions or pension rights of judicial office holders in the courts.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because these changes are organisational and structural within the High Court of England and Wales. The indirect benefit to businesses, charities and voluntary bodies would be more transparency and better access to justice through these changes. Businesses, charities and voluntary bodies that make reference to the Chancery Division online (for example through guidance, or professional associations) will incur minor inconveniences to update these references.

9.3 There is no, or no significant, impact on the public sector because the changes are on the organisation of structure of the High Court of England and Wales, not to the work or practices of the High Court.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 This change affects the Judiciary, who are independent of Government, and will be able to report and monitor the impact through annual reporting.

10.2 This Order does not contain a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 The Order makes consequential amendments to primary legislation to update references to the Chancery Division, Chancellor of the High Court, and Judicial Office Holders in the Chancery to reflect the new name of the Business and Property Division, the President of that Division and Judicial Office Holders named in legislation. It does not make any substantive changes to that legislation.

11.2 The Order also relates to The Civil Procedure (Amendment No. 2) Rules 2026, which have not yet been made as they are dependent on this Order, and which will update the Civil Procedure Rules to reflect the new names and structure of the Divisions of the High Court. The Civil Procedure (Amendment No 2) Rules 2026 are intended, once made, to come into force on the same day as this Order, on 1st October 2026

11.3 Article 1(3) provides that the Order extends to England and Wales, which mirrors the extent of the power in section 7 of the Senior Courts Act 1981, under which the Order is made. Some of the enactments amended by the Order extend beyond England and Wales (such as the Human Rights Act 1998 and the Constitutional Reform Act 2005). The effect of making an amendment that extends only to England and Wales in relation to those enactments is that, so far as the enactment extends to Scotland or Northern Ireland, the old text will continue in force in parallel. The limited extent of section 7 means, however, that it is not possible to provide for the amendments of an enactment to have the same extent as the enactment being amended.

12. European Convention on Human Rights

12.1 The Rt Hon. David Lammy MP, Lord Chancellor and Secretary of State for Justice has made the following statement regarding Human Rights:
"In my view the provisions of The Senior Courts (Transfer, Amendment and Consequential Provisions) Order 2026 are compatible with the Convention rights.".

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").