

**EXPLANATORY MEMORANDUM TO THE  
CHILDREN (ALLOCATION OF PROCEEDINGS) (AMENDMENT) ORDER 2005**

**2005 No. 520**

1. This explanatory memorandum has been produced by the Court Service (an Executive Agency of the Department for Constitutional Affairs) and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

**2 Description**

- 2.1 This Order amends the Children (Allocation of Proceedings) Order 1991 (“the 1991 Order”) in order to -----

- (a) designate Exeter County Court as a Care Centre;
- (b) amend the transfer arrangements between magistrates’ courts and Care Centres in Devon to reflect the new designation of Exeter County Court;
- (c) replace references to “petty sessions areas” and “London commission area” with the term “local justice area” further to the Courts Act 2003;
- (d) bring up to date the names of petty sessions areas in consequence of changes to their boundaries; and
- (e) reflect the change in the administrative organisation of the courts following the creation of Her Majesty’s Courts Service (“HMCS”).

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

- 3.1 None

**4. Legislative Background**

- 4.1 It has been decided that Exeter County Court should become a Care Centre as defined in article 2 of the 1991 Order. A Care Centre is a county court designated for the purpose of hearing cases under Parts III, IV or V of the Children Act 1989. This Order affects that designation and amends the 1991 Order to re-organise the transfer arrangements between magistrates’ courts and Care Centres on the Western Circuit to reflect this change.
- 4.2 Amendments to the Order have also been made to replace references to “petty sessions areas” and “London commission area” with references to “local justice area” and references to Circuits with references to the new court

regions. This reflects changes to the organisation of the courts made by the Courts Act 2003, which are also being brought into force on 1<sup>st</sup> April 2005.

- 4.3 At the same time the opportunity has been taken to up-date the names of the petty sessions areas (local justice areas as they will become) in consequence of changes to their boundaries, which have not previously been reflected in the 1991 Order.

## 5. Extent

- 5.1 This instrument applies to England and Wales.

## 6. European Convention of Human Rights

- 6.1 Not applicable.

## 7. Policy Background

- 7.1 When the Care Centres were allocated for Devon, Plymouth County Court was chosen after taking into account all the available facilities. At the time the premises at Exeter County Court were not considered suitable for the provision of this work. In November 2004, Exeter County Court moved into a new building which will provide all facilities to enable care cases to be heard, including secure access and video link suites. The extra family work can be absorbed into the new Care Centre and it is considered that both centres are required in order to provide a full and proper service to the public and practitioners in the county.

- 7.2 The designation of Exeter as a Care Centre also identified a number of other changes needed to bring the 1991 Order up to date: to reflect variations to the boundaries of petty sessions areas and the revised regional structure following creation of HMCS. Accordingly, these changes have also been incorporated into the same statutory instrument. This work has been discussed and agreed with the lawyers and officials dealing with other aspects of unification of the courts. Regional and Area Directors have additionally approved it.

- 7.3 **Article 2** inserts into the 1991 Order a definition of “local justice area” in place of the definitions of “petty sessions area” and “London commission area”. These changes in definition flow from the implementation of provisions of the Courts Act 2003 on 1<sup>st</sup> April 2005. **Article 3** makes consequential changes to Articles 9 and 18 of the 1991 Order in light of Article 2.

- 7.4 **Article 4** amends Schedule 1 to the 1991 Order by replacing references to Circuits (the existing administrative and judicial areas into the which England and Wales is divided) with Regions (the high level organisation following creation of Her Majesty’s Courts Service on 1<sup>st</sup> April 2005). **Articles 4(a) and 4(f)** additionally make changes to reflect the fact that the South Eastern Circuit is being sub-divided into a South East Region and a new London Region.

- 7.5 **Article 5** replaces the existing Schedule 2 to the 1991 Order with the new arrangements for transfer of public law proceedings under Parts III, IV and V

of the Children Act 1989, between magistrates' courts and care centres. It also makes provision for the newly designated Exeter County Court Care Centre.

- 7.6 The decision to designate Exeter as a Care Centre has been discussed with, and agreed by, the following individuals and organisations: The President of the Family Division, Mr Justice Coleridge (Designated Family Liaison Judge: Western Circuit), the judiciary at Exeter and Plymouth, CaFCASS, the local Justices' Chief Executives, practitioners in Devon and local authorities.

## **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 save minor changes to records held.
- 8.2 The impact on the public sector is negligible since the changes to the 1991 Order merely formalise the existing transfer arrangements. The designation of Exeter County Court as a Care Centre will reduce the distance many practitioners and litigants need to travel thereby reducing the burden both on the public sector and legal funding. The Court Service and judiciary will be able to meet any revised workload patterns from within existing allocations. Other Government Departments will make changes to records but again the costs of this are negligible.

## **9. Contact**

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