

**EXPLANATORY MEMORANDUM TO
THE CIVIL COURTS (AMENDMENT) ORDER 2006**

2006 No. 1542

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 Civil Courts Order 1983 (SI 1983/713) so as to close the Shoreditch County Court and the Clerkenwell County Court. It provides for a new county court, at Farringdon, London EC1, named Clerkenwell & Shoreditch County Court.

2.2 The Order also deals with the various special jurisdictions, such as divorce, which the new county court will have. These are the same as those possessed by the two closed courts. The Order also makes some corrections to entries in Schedule 3 to the 1983 Order.

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

3.1 The Order mixes provisions subject to different forms of Parliamentary procedure. The provisions conferring divorce and *withholding* insolvency (companies) jurisdiction under section 33(1) of the Matrimonial and Family Proceedings Act 1984 (c.42) and section 117(4) respectively are subject simply to the requirement that a relevant order is made as a statutory instrument (sections 33(5) and 117(4) respectively). The other provisions in the Order are subject to a requirement that the instrument is laid before Parliament after being made. The department notes, however, that neither form of procedure can involve the possibility of Parliamentary proceedings and hence the risk of procedural difficulties referred to at paragraph 4.8.1 of the Statutory Instrument Practice cannot arise. The department therefore considers it is reasonable in this case to put these jurisdictional provisions in one instrument for the convenience of readers and court users.

4. Legislative Background

4.1 Section 2(1) of the County Courts Act 1984 provides the power of the Lord Chancellor to specify, after consultation with the Lord Chief Justice, places at which county courts shall be held. Section 33(1) of the Matrimonial and family Proceedings Act 1984, provides a power of the Lord Chancellor, with the concurrence of the Lord Chief Justice, to designate a county court as a divorce county court and court of trial.

4.2 Section 117 and 374 of the Insolvency Act 1986 provide a power of the Lord Chancellor, with the concurrence of the Lord Chief Justice, to exclude a county court from having winding up and insolvency jurisdiction which it would otherwise have. Section 67 of the Race Relations Act (RRA) 1976 provides a power to designate a county court as having jurisdiction in matters under the RRA and also to extend its district to include the districts of other country courts which are not given RRA jurisdiction.

4.3 The concurrence of the Lord Chief Justice is a new requirement provided by the Constitutional Reform Act 2005 (c.4).

5. Extent

5.1 This instrument applies to England and Wales

6. European Convention on Human Rights

6.1 As this instrument is subject to negative resolution procedure and does not substantively amend primary legislation, no statement is required.

7. Policy background

7.1 Clerkenwell & Shoreditch County Court is a new purpose built court to replace the former Shoreditch County Court and Clerkenwell County Court, both of which are to close. Unlike the old courts, the new court is to be a family hearing centre and will have divorce jurisdiction. A separate Order (The Children (Allocation of Proceedings) (Amendment) Order 2006) will designate the new court as a family hearing centre.

7.2 After informal consultation with members of the Judiciary a consultation paper on the merger was issued in 2004. The response was positive.

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. In establishing the location for the new courthouse, transport link surveys were undertaken. The building is DDA compliant. There are better facilities for staff, customers and the judiciary.

9. Contact

9.1 Stephanie Oxendale at the Department for Constitutional Affairs, Tel 020 7073 4768 or email Stephanie.Oxendale@dca.gsi.gov.uk can answer any queries regarding the instrument.