

**EXPLANATORY MEMORANDUM TO THE
JUSTICES OF THE PEACE (TRAINING AND APPRAISAL) RULES 2005**

2005 No. 564

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 instrument makes procedural rules for training and appraisal of Justices of the Peace (lay magistrates). These rules are made under Sections 10, 18 & 19 of the Courts Act 2003 (c.39). In part they replace the Justices of the Peace (Size and Chairmanship of Bench) Rules 2002 (SI 2002/193 as amended), which will lapse when the provisions of the Justices of the Peace Act 1997, under which they were made, are repealed on 1 April.

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

- 3.1. None

4. Legislative Background

- 4.1. The Courts Act 2003 provides for the Lord Chancellor to make rules under sections 10, 18 and 19 about training, development and appraisal. These provisions envisage the establishment of committees to perform functions in connection with training etc needs. The power to make these rules is exercisable by statutory instrument subject to negative resolution procedure.
- 4.2. The Rules are needed because the relevant sections of the Courts Act will be enacted on 1 April 2005 thereby abolishing the current statutory basis on which training for magistrates is delivered. The Lord Chancellor will assume the responsibility for magistrates' training from Magistrates' Courts Committees, which will be abolished, and these Rules support this transfer of responsibility.
- 4.3. These rules are cross-referenced with the Justices of the Peace (Size and Chairmanship of Bench) Rules 2005 (SI No). Those rules replace the Justices of the Peace (Size and Chairmanship of Bench) Rules 2002 (SI 2002/193 and the amended rules 2004 (SI 2004/1514).

- 4.4. These rules are subject to the negative resolution procedure.

5. Extent

5.1. This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1. There are no human rights implications.

7. Policy Background

7.1. Responsibility for magistrates' training currently rests with Magistrates' Courts Committees under section 64(1) of the Justices of the Peace Act 1997. Magistrates Courts Committees submit their training plans to the Judicial Studies Board and the Lord Chancellor approves these plans on the advice of the Judicial Studies Board. Magistrates' training is supported by Bench Training and Development Committees, which are provided for by the Justices of the Peace (Size and Chairmanship of Bench) Rules 2002 as amended.

7.2. Section 4 of the Courts Act 2003 provides for the creation of Her Majesty's Courts Service, combining the management of the Magistrates Courts, Crown and County and the higher Courts. Section 6 abolishes Magistrates' Courts Committees from 1 April 2005. From that date the responsibility for magistrates' training will fall to the Lord Chancellor.

7.3. The Courts Act 2003 (sections 10, 18 and 19) enables the Lord Chancellor to make rules in respect of:

- the training to be undertaken by magistrates before exercising functions in particular jurisdictions;
- establishing training and selection processes for the authorisation of magistrates to preside in the adult court; and
- creating committees to provide advice and support for magistrates, identify training needs, and operate appraisal schemes for magistrates.

7.4. These matters are of strong interest to the magistrates' community but not beyond. Magistrates have been consulted on the policy behind the new rules. The measures have not yet attracted, and are not likely to attract, interest from the media or general public. However, they support the government's policy of increasing public confidence in the criminal justice system, and as such these changes are politically important.

7.5. It would also be difficult to justify implementing a non-statutory training and appraisal structure when there exists specific rule making powers for the same purpose. The reason for putting these provisions into legislative form was, in support of magistrates' newly acquired national jurisdiction, to ensure clarity

and consistency for those receiving training and also for those delivering training to magistrates.

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.

9. Contact

9.1. Alistair Cook at the Department for Constitutional Affairs (Tel: 020 7210 1824 or e-mail alastair.cook@dca.gsi.gov.uk) can answer any queries regarding the instrument.