

**EXPLANATORY MEMORANDUM TO**  
**THE CHILDREN (ALLOCATION OF PROCEEDINGS) (AMENDMENT No.**  
**2) ORDER 2007**

**2007 No. 1099 (L. 6)**

1. This explanatory memorandum has been prepared by Her Majesty's Courts Service and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 This Order supersedes the Children (Allocation of Proceedings) (Amendment) Order 2007 (S.I. 2007/774) and correctly specifies the amendments to Schedules 2, 3 and 4 to the Children (Allocation of Proceedings) Order 1991 (S.I. 1991/1677) ("the 1991 Order").

2.2 Schedule 2 to the 1991 Order, which allocates care centres to local justice areas grouped according to region, is amended so that the care centre allocated to the local justice areas of Wrexham Maelor and Montgomeryshire is Wrexham county court. Schedule 3 to the 1991 Order lists the county courts that are designated as adoption centres and Schedule 4 lists those designated as intercountry adoption centres. Both Schedules have been amended with the effect that Wrexham county court will be a designated adoption centre and intercountry adoption centre.

2.3 Other minor amendments have been made to Schedule 2 so that the entries for the local justice areas of Chester, Ellesmere and Neston, Halton, Macclesfield, South Cheshire, Vale Royal and Warrington have been moved from the Wales Region to the North and West Region.

2.4 The Order also revokes the Children (Allocation of Proceedings) (Amendment) Order 2007, which has not yet come into force.

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

3.1 This instrument contravenes the 21-day rule mentioned in paragraph 4.13 of *Statutory Instrument Practice*, which requires that instruments subject to annulment should normally not be brought into force until 21 days after laying, for the following reason:-

3.2 An error and two omissions were identified in the Children (Allocation of Proceedings) (Amendment) Order 2007. In error, the Order inserted a new entry into Schedule 2 to the 1991 Order for the local justice area of Wrexham rather than amending the entry for Wrexham Maelor. By omission, the entry for the local justice area for Montgomeryshire was not amended so as to designate Wrexham county court, in place of Rhyl county court, as the court to which proceedings under Parts III, IV and V of the Children Act should be transferred, and Wrexham county court was not designated as an intercountry adoption centre.

3.3 The Department considers that it is preferable and less confusing to the public and to court users to revoke the incorrect order, before it comes into force, and make a new order which correctly sets out the amendments to the 1991 Order. This will ensure that the 1991 Order is amended once rather than twice in quick succession. In order to do this it is necessary to contravene the 21-day rule.

3.4 As this instrument corrects the defects in S.I. 2007/774 arrangements have been made for copies of this instrument to be made available free of charge to purchasers of that instrument.

#### **4. Legislative Background**

Part 1 of schedule 11 to the Children Act 1989 enables the Lord Chancellor, having consulted with the Lord Chief Justice, to make an order specifying a class of court described by reference to a description of proceedings. Article 2 of the Children (Allocation of Proceedings) Order 1991 sets out the various classes of county court and refers to Schedule 2, which lists the courts designated as care centres, Schedule 3, which lists the courts designated as adoption centres, and Schedule 4, which lists the courts designated as intercountry adoption centres.

#### **5. Extent**

This instrument applies to England and Wales.

#### **6. European Convention on Human Rights**

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

#### **7. Policy background**

From 2 April 2007 Cheshire will merge with Merseyside and become part of the North West Region of HMCS and Wales will become a separate Region. Any public law work being transferred from a magistrates' court in the Montgomeryshire and Wrexham Maelor Local Justice Areas will be transferred to Wrexham county court. It is also intended that Wrexham county court will deal with adoptions and intercountry adoptions instead of Chester county court.

#### **8. Impact**

The Lord Chancellor took the decision in the summer of 2006 to merge Cheshire with Merseyside and create HMCS Wales in order to give effect to the view that, as far as is possible, cases originating in North Wales should be managed and heard there. Whilst lack of courtroom space will mean that for some time, a minority of cases will continue to be heard in Chester, this order will change the presumption that they will be heard there, thereby reducing the distance travelled by the majority of court users and ensuring that partner agencies are dealing in Wales with the Welsh system and in England with an English one.

## **9. Contact**

Please contact Vincent Ramkissoon at Her Majesty's Court Service on 020 7210 1457 or e-mail [vincent.ramkissoon@hmcourts-service.gsi.gov.uk](mailto:vincent.ramkissoon@hmcourts-service.gsi.gov.uk) regarding the instrument.