

**EXPLANATORY MEMORANDUM TO
THE LONDON INSOLVENCY DISTRICT (CENTRAL LONDON COUNTY
COURT) ORDER 2011**

[2011] No. 761

1. This explanatory memorandum has been prepared by The Ministry of Justice and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 The Order defines the areas that fall within the London insolvency district. The Order confers jurisdiction on the Central London County Court (CLCC), for the purpose of individual insolvency proceedings that are allocated to the London insolvency district. It also makes changes which have the effect of aligning the insolvency district of the CLCC with the London insolvency district.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Context**
 - 4.1 The current arrangement whereby insolvency proceedings in relation to individuals residing or carrying on business in the London area are dealt with at the High Court is an historical anomaly given that in all other parts of England and Wales this jurisdiction is exercised by the county court designated for the insolvency district concerned. Conferring jurisdiction on the CLCC will therefore bring jurisdiction for insolvency proceedings in relation to individuals residing or carrying on business in the London area into line with the rest of England and Wales.
 - 4.2 Parts 7A to 11 of the Insolvency Act 1986 and Parts 5 to 6A of the Insolvency Rules 1986 (S.I. 1986/1925) contain provisions about individual insolvency proceedings and Part 7 of the Insolvency Rules 1986 contains provisions about Court Procedure and Practice. The intention is that the Insolvency Rules 1986 will be amended to reflect the changes made by this instrument, in particular to allocate certain insolvency proceedings in relation to individuals to the London insolvency district, so that some of them can be handled in the Central London County Court.
5. **Territorial Extent and Application**
 - 5.1 This instrument applies to England and Wales.
6. **European Convention on Human Rights**

The Lord Chancellor and Secretary of State for Justice, the Right Honourable Kenneth Clarke QC MP, has made the following statement regarding Human Rights:

“In my view the provisions of the London Insolvency District (Central London County Court) Order 2011 are compatible with the Convention rights.”

7. Policy background

- *What is being done and why*

7.1 As explained in paragraph 4.1 above, the principal reason for this instrument is to bring the jurisdictional position for London into line with that for the rest of England and Wales, although for the reasons outlined below, this will not produce a complete match.

7.2 The intention is that the CLCC will deal with less complicated and lower value proceedings, while higher value and more complex proceedings will continue to be handled in the High Court. As higher value and complex proceedings **outside** the London area will continue to be heard in the county courts, leaving higher value and complex proceedings in the London area with the High Court will mean that there will remain some difference between the exercise of jurisdiction in the London area and outside it. However, the Ministry of Justice considers that this continuing difference is justified: there is a larger volume of such higher value and more complex proceedings in the London area and the High Court has specialised judiciary to deal with such proceedings. The intended outcome is to ensure that the High Court only deals with the business that needs its additional expertise and knowledge and that additional costs are not incurred unnecessarily.

7.3 The current CLCC building is not big enough to handle the additional work of handling less complicated and lower value bankruptcy proceedings. The intention is therefore that this work will continue to be dealt with at the Royal Courts of Justice buildings (RCJ) by the same **administrative** staff; the difference will be that the matters will be heard by Circuit and District Judges based at the RCJ rather than High Court judges and Registrars. It is envisaged that this arrangement will continue until such time as the CLCC is relocated to a larger building. However, in the present financial climate there is no realistic prospect of the CLCC being relocated in the foreseeable future and it is therefore likely that this work will continue to be dealt with by the CLCC operating out of the RCJ for some considerable time.

7.4 Under section 3(1) of the County Courts Act 1984, the Lord Chancellor will need to give directions (after consulting the Lord Chief Justice) to permit the CLCC to sit in the RCJ. The intention is that these directions will be made to coincide with the making of the Order.

- *Consolidation*

7.5 None.

8. Consultation outcome

8.1 The working party that formulated the proposal was chaired by a Chancery High Court Judge and included in its membership a Bankruptcy Registrar, a Chancery Circuit Judge and the Area Director of HMCS London Civil and Family Services. The working party's recommendations were accepted by the Chancellor of the High Court (the Chancellor) and endorsed by members of the Judicial Executive Board. Implementation has been overseen by a Working Group chaired by the Chancellor with representation from Ministry of Justice (MoJ) and the Department for Business, Innovation and Skills (BIS) Insolvency Policy Directorates.

8.2 A formal public consultation has not been undertaken because the proposals simply correct an historical anomaly and, because the work will continue to be undertaken in the same place (the RCJ) by the same administrative staff for the foreseeable future, the Ministry does not consider that the change will have impacts for court users, business or the public generally. The practical difference to these groups will simply be that their matters are heard by different levels of the judiciary (County Court rather than High Court). However the proposals have been reported to and discussed without objections at the Company & Bankruptcy Court Users Committee, which represents all current users, and also with representatives of Her Majesty's Revenue and Customs (HMRC), the single largest user of the court. Additionally, in accordance with 1(9) of the Courts and Legal Services Act 1990 the Lord Chancellor has consulted with the Lord Chief Justice, the Master of the Rolls, the President of the Queen's Bench Division, the President of the Family Division, Chancellor of the High Court and the Senior Presiding Judge.

8.3 No objections have been raised by any of those consulted.

8.4 In accordance with section 1(1A) of the Courts and Legal Services Act 1990 and section 374 of the Insolvency Act 1986 respectively the Lord Chief Justice and the Chancellor of the High Court (as a nominee of the Lord Chief Justice) concur in the making of this Order.

9. Guidance

9.1 Notices will be displayed within the RCJ directing people to the correct areas. Notices will also be displayed in the CLCC and the HMCS website will be amended to reflect these changes to jurisdiction.

10. Impact

10.1 The impact on business, charities or voluntary bodies will be negligible.

10.2 The impact on the public sector is negligible.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation applies to small businesses.

11.2 As to any impact that these proposals will have on small businesses, please refer to paragraph 8.2: the practical difference to court users (including firms employing up to 20 people) will simply be that their matter will be heard by different levels of the judiciary. There will be advance notice of this on the HMCS website and there will be notices in the RCJ and CLCC (please see paragraph 9.1).

12. Monitoring & review

12.1 The effects of these changes will be continuously monitored and reviewed after 3 years or when CLCC is relocated, whichever is the earlier.

13. Contact

Ghulam Chowdhury at the Ministry of Justice Tel: 020 3334 3171 or email: ghulam.chowdhury1@justice.gsi.gov.uk can answer any queries regarding the instrument.