

**EXPLANATORY MEMORANDUM TO
THE LOCAL JUSTICE AREAS (NO.2) ORDER 2005**

2005 No. 2949

1. This explanatory memorandum has been prepared by 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 combines the North Pembrokeshire Local Justice Area ('LJA') and South Pembrokeshire LJA into a new area named Pembrokeshire LJA and the De Maldwyn LJA and Welshpool LJA into a new area named the Montgomeryshire LJA. (LJAs were formerly known as Petty Sessions Areas.)

3. **Matters of special interest to the [Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments]**

- 3.1 This Order breaches the 21 day rule in respect of Part 1 of the Schedule, which comes into force on the day following the day on which the Order is made. Each year, on 1 January the justices' rota arrangements for the coming year are detailed. The main body of the Order comes into force on 1 January 2006 so that it can fit in with that annual cycle. In order to work, the new Chairs and Deputy Chairs of the combined areas must be in place by 1 January. That necessitates bringing Part 1 of the Schedule to the Order into force early in order that elections of those officials can take place.

- 3.2 The change made by this Order is a change in form rather than substance designed to make delivery of local justice more efficient since the relevant benches already sit together where it is lawful for them to do so. However, this is the first merger of LJAs under these powers and local conditions meant that it was important that the matter was seen to have been given detailed consideration. A consultation paper was then issued on 4 July 2005. The nine week consultation process came back with little substantial disagreement with the proposal and clear support for the process occurring as soon as possible. The results were again given detailed consideration and the decision was made to attempt to satisfy local wishes by merging the areas in time for the 2006 cycle. As indicated above Part 1 of the Schedule needs to come into force before the 21 day period is over to allow the elections process to occur. The elections process takes 9 weeks. First, before the elections to the proposed merged areas can take place, the number of Deputy Chairs that are required in the new areas must be ascertained. This necessitates holding back to back AGMs for the old areas during which those decisions were taken. After that nomination forms can be sent out for the Chair and Deputy Chair positions.

Three weeks is the minimum period required for nominations to be returned. Once returned, if elections are necessary, ballot papers will be sent out and three weeks allowed for the papers to be returned. A minimum of a further week is required to count, notify candidates and hold a meeting to confirm the results. It is hoped to hold those meetings on 20 and 21 December to avoid difficulties associated with later dates coinciding with the holiday period. There is therefore too little time have the officers in post before 1 January without bring Part 1 of the Schedule into force early.

4. Legislative Background

4.1 The Local Justice Area Order 2005 made under section 8(1) of the Courts Act specifies the LJAs into which England and Wales is divided. Section 8(4) of the Courts Act 2003 confers powers on the Lord Chancellor to make orders altering LJAs. Under Section 8(6) the Lord Chancellor must consult the justices of the peace assigned to the LJA, any courts board whose area includes the LJA or part of the LJA and any local authorities whose area includes the LJA.

5. Extent

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

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

7. Policy background

7.1 The term LJA was introduced by way of the Courts Act 2003 and LJAs, until the implementation of that legislation were known as Petty Sessions Areas. The Justices who sit to hear court business within a LJA are collectively referred to as a "Bench" of Justices.

7.2 The mergers set out in paragraph 2.1 do not effect the remaining 6 LJAs in Dyfed Powys.

7.3 The key business reasons for the mergers to take place are set out below:-

- The justices of the North Pembrokeshire Local Justice Area and the South Pembrokeshire Local Justice Area share the same courthouse at The Law Courts, Haverfordwest; and the justices of the De Maldwyn Local Justice Area and the Welshpool Local Justice Area already share the same courthouse at The Town Hall, Welshpool.
- In each case, the justices affected already sit together whenever it is lawful for them so to do. The justices for the North Pembrokeshire and South Pembrokeshire local justice areas sit together, and any bench of three justices sitting on any day may consist of representatives from each of those local justice areas; and the same applies to De Maldwyn and Welshpool local justice areas. Therefore, in the case of both proposed

mergers all that is being achieved with this exercise is to give statutory effect to the practice on the ground.

- Although there are two Local Justice Areas in Pembrokeshire, North Pembrokeshire and South Pembrokeshire, there is one joint Family Panel for the entirety of Pembrokeshire, with justices from each Local Justice Area being elected to serve on that Panel. Currently, each of the two Pembrokeshire Local Justice Areas has its own Youth Panel. A natural consequence of merging the two Local Justice Areas will be to have just one Youth Panel for Pembrokeshire.
- Montgomeryshire already has joint Family and Youth panels operating on a Montgomeryshire basis, with justices being elected from each of the Local Justice Areas, De Maldwyn and Welshpool, to serve on those respective panels.

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 Mike McIver at the Department for Constitutional Affairs Tel: 020 7210 0419) or e-mail: mike.mciver@dca.gsi.gov.uk can answer any queries regarding the instrument.