EXPLANATORY MEMORANDUM TO

THE CRIMINAL JUSTICE AND PUBLIC ORDER ACT 1994 (SUSPENSION OF CUSTODY OFFICER CERTIFICATE) (AMENDMENT) REGULATIONS 2006

2006 No. 1050

1. This explanatory memorandum has been prepared by the Home Office 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 These Regulations (the 2006 Regulations) amend earlier Regulations, which prescribe the circumstances in which the certificate of a custody officer at a contracted-out secure training centre, or a custody officer who escorts young people to or from a secure training centre, can be suspended.

The amendment is needed to clarify the type of allegation that must be made before a custody officer's certificate may be withdrawn. The allegation must be one of misconduct.

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

3.1 The 2006 Regulations remedy defective drafting identified by the Committee in relation to the Criminal Justice and Public Order Act 1994 (Suspension of Custody Officer Certificate) Regulations 1998 (S.I. 1998/474).

4. Legislative Background

4.1 See paragraph 3.1 above.

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 Criminal Justice and Public Order Act 1994 (the 1994 Act) provides for the establishment and running of secure training centres. It also provides for the provision and running of a centre, and the performance of functions at a directly-managed centre, to be contracted out.

7.2 Secure training centres were originally for the detention of offenders between the ages of 12 and 14 (inclusive) who had received a Secure Training Order (which also was provided for in the 1994 Act). Following the abolition of the Secure Training Order in 2000, the centres now accommodate young offenders aged 12 to 17 (inclusive) who are serving a custodial sentence under section 90, 91 or 100 of the Powers of Criminal Courts (Sentencing) Act 2000; as well as some young people who have been remanded to the care of a local authority with a requirement that they be kept in secure conditions. Placement of a remandee in a secure training centre requires the consent of the Secretary of State. Four centres are now in operation, all of which are contracted out.

7.2 Persons performing custodial duties in a contracted-out secure training centre, or a directly-managed centre where custodial duties have been contracted out, and those escorting young people between a centre and other "relevant premises" (a court, a hospital or a police station), must be certified by the Secretary of State. The 1994 Act enables a person in authority – the escort monitor or the person in charge of a secure training centre – to suspend a custody officer's certificate, pending a decision by the Secretary of State whether or not to revoke it. The 1998 Regulations prescribe that a certificate may be suspended if an allegation is made against a custody officer; and the 2006 Regulations make it clear that such an allegation must be an allegation of misconduct.

7.3 This is a drafting amendment, of minimal importance and no general interest.

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

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