EXPLANATORY MEMORANDUM TO

THE LOCAL AUTHORITIES (GOODS AND SERVICES) (PUBLIC BODIES) (ENGLAND) ORDER 2014

2014 No. 1197

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 enables the National Probation Service and Community Rehabilitation Companies in England to enter into agreements with local authorities to be supplied with legal, occupational health, health and safety, human resources or accounting services, or a combination of those services, which are of a kind previously provided by some local authorities to some probation trusts.

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

3.1 None.

4. Legislative Context

4.1 Section 1(1) of the Local Authorities (Goods and Services) Act 1970 (the 1970 Act) provides that a local authority and any public body within the meaning of section 1 may enter into an agreement for "the provision by the local authority for the public body of any administrative, professional or technical services" (subsection (1)(b)).

4.2 The local authorities and public bodies covered by section 1 are defined in subsection (4).

4.3 The effect of section 1(5) of the 1970 Act is that the Secretary of State for Communities and Local Government and the Secretary of State for Justice acting jointly may by order provide that any person who appears to them to be exercising a public function is specified as a public body for the purposes of the Act and that any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

4.4 As amended by the Offender Management Act 2007 (Consequential Amendments) Order 2008 (SI 2008 No. 912), the public bodies itemised in section 1(4) includes "a probation trust".

4.5 Probation trusts are bodies established under the Offender Management Act 2007. Section 5 of that Act empowers the Secretary of State to establish probation trusts, the purposes which must consist of, or include, the making or performance by the trust of contracts with the Secretary of State in connection with the provision of probation services.

5. Territorial Extent and Application

5.1 This instrument applies to England.

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 policy objectives of the 1970 Act are to enable a variety of public bodies, including probation trusts, to obtain goods and services from local authorities.

7.2 As part of a series of reforms known as the *Transforming Rehabilitation* programme, the Government is creating a new structure for the provision of probation services, to replace the existing structure under which these services are provided by probation trusts. Under the new arrangements, higher-risk offenders are to be managed by a new National Probation Service; and medium- and lower-risk offenders by 21 new locally-based Community Rehabilitation Companies. Responsibility for the provision of probation services will transfer to these new bodies on 1 June 2014.

7.3 The present Order enables the National Probation Service and the Community Rehabilitation Companies, during a transitional period up to 30 June 2015, to obtain services from local authorities in connection with legal, occupational health, health and safety, human resources or accounting services (services of a kind that some local authorities have been providing to some probation trusts). The purpose of the Order is to help ensure a smooth transition to the new probation arrangements, by providing continuity with existing practice. Statutory authority is needed to ensure local authorities are legally entitled to provide these services to the new probation bodies. The Order allows for a limited period of transition, as it is anticipated that local authorities should be able to use their general power of competence, as provided in the Localism Act 2011, to provide these services to the National Probation Service and the Community Rehabilitation Companies, with appropriate regard to the limits on doing things for a commercial purpose in exercise of general power. The period of transition allows ample time to consider and make such arrangements.

7.4 These regulations do not extend to Wales and only apply to the provision of services in England. Accordingly the order does not apply to the Wales Community Rehabilitation Company Ltd which will provide probation services in Wales.

7.5 The *Transforming Rehabilitation* reforms are the focus of considerable public interest; however, the change made by the present Order is a purely administrative one, which did not require consultation.

7.6 This change is a minor one, but it is important in the context of the need to facilitate a smooth handover from probation trusts to the National Probation Service and the Community Rehabilitation Companies.

8. Consultation outcome

8.1 No consultation was necessary.

9. Guidance

9.1 The Ministry of Justice will inform the National Probation Service and the Community Rehabilitation Companies about the continued availability of these services.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 As regards the public sector, the Order simply enables local authorities to continue, for a short period, to provide services they are already providing.

10.3 An impact assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 No monitoring is planned, or necessary.

13. Contact

Toby Cottrell at the Ministry of Justice, tel: 0300 047 6291 or e-mail: toby.cottrell@noms.gsi.gov.uk can answer any queries regarding the instrument.