EXPLANATORY MEMORANDUM TO

THE LOCAL PROBATION BOARDS (APPOINTMENT AND MISCELLANEOUS PROVISIONS) (AMENDMENT) REGULATIONS 2006

2006 No. 2664

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These regulations omit regulation 5(2) of the Local Probation Boards (Appointment) Regulations 2000 (SI 2000/3342) ("the 2000 Regulations") which requires a local probation board to include in its membership, where practicable, four magistrates and two members of a local authority.

2.2 The regulations also amend the requirement under regulation 6 of the 2000 Regulations that a member of a local probation board other than the chief officer is to be appointed to a term of three years and amends this to a term not exceeding three years.

2.3 The regulations amend regulation 8(2) of the Local Probation Boards (Miscellaneous Provisions) Regulations 2001 (SI 2001/786) ("the 2001 Regulations") to reduce the number of members required to be present for a meeting of a local probation board to be quorate from seven to five members.

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

3.1 None.

4. Legislative Background

4.1 The regulations are made under paragraphs 2(4) and (6), 3(4) and 6 of Schedule 1 to the Criminal Justice and Court Services Act 2000 (2000 c.43).

5. Extent

5.1 These regulations apply to England and Wales.

6. European Convention on Human Rights

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

7. Policy background

7.1 Local probation boards were created by Part 1 of the Criminal Justice and Court Services Act 2000 ("the 2000 Act") and there are currently 42 Local Probation Boards which are coterminous with police areas (in London one Probation Board covers the Metropolitan and City of London Police Areas). They have the following aims and objectives:

- the protection of the public;
- the reduction of re-offending;
- the proper punishment of offenders;
- ensuring offenders' awareness of the effects of crime on victims of crime and the public; and
- the rehabilitation of offenders.

7.2 The structure and the procedure of local probation boards are set out in Schedule 1 to the 2000 Act. The Schedule provides that local probation boards consist of a chairman, a Chief Officer and no less than 5 other members. One of the other members must be a Judge of the Crown Court appointed by the Lord Chancellor. All of the other members are appointed by the Secretary of State. The Schedule also provides that regulations may make provisions as to the appointment of members, the tenure of members and the procedure of the boards. The 2000 Regulations and the 2001 Regulations were made under Schedule 1 to the 2000 Act.

7.3 It is Home Office policy to introduce commissioning and contestability into the provision of probation services. There is already an increased focus on this area of work. Local probation boards are currently able to purchase and commission probation services; in the next two years boards are expected to increase the extent to which they purchase and commission services. In order to achieve this, greater emphasis is being placed on:

- driving up the performance of local probation boards;
- encouraging boards to operate in a more competitive environment; and
- loosening the ties between the National Probation Directorate, which is part of the Home Office, and the local probation boards by making a number of the requirements regarding the composition of boards less prescriptive.

The changes made by these Regulations form part of this policy.

7.4 These Regulations omit regulation 5(2) of the 2000 Regulations, which requires four magistrates and two local authority members to be appointed, where practicable, to local probation boards. This requirement is a legacy from previous ways of working and the former closer connection between the Probation Service and local government. As the Probation Service moves into an environment of

public value partnerships, board members will need a different skill set, focusing in part on business acumen, in particular human resources, finance, diversity and competition, in order to meet these challenges and provide a valuable and successful service. Public value partnerships are a mixed economy of provision, purchasing, commissioning of services and greater competition. It is important that the Secretary of State is in a position to appoint as members of boards the most promising candidates in an open competition without being constrained by this prescriptive requirement.

7.5 In addition, by omitting regulation 5(2) of the 2000 Regulations, we aim to rebalance the composition of local probation boards so that boards can be more effective in addressing local circumstances and needs by having greater freedom to make their own decisions about their composition.

7.6 In removing this requirement the Home Office does not seek to remove the representation of magistrates and local authority members from boards. Sentencing input will continue to be valuable to boards. A Crown Court judge will continue to sit on each local probation board and it is fully expected that boards will continue to require the expertise and experience of magistrates and councillors, with or without commercial or partnership experience.

7.7 These Regulations also amend the requirement under regulation 6 of the 2000 Regulations that a member of a local probation board other than the chief officer is to be appointed to a term of three years and amends this to a term not exceeding three years. The fixed three year term is particularly prescriptive; this amendment will give boards' greater flexibility to determine the term of the appointment.

7.8 The amendment to regulation 8(2) of the 2001 Regulations lowers the number of members required for a local probation board meeting to be quorate from seven to five. Many local probation boards struggle to achieve a quorum of seven members. Local probation boards can have a maximum of 15 members; currently most boards operate at this maximum membership number to ensure that they always have a quorum present at meetings. This means that many boards are operating with more members than they actually require which is not an efficient use of resources. This amendment will enable local probation boards to operate, where appropriate, with fewer members, which should increase the effectiveness of boards.

7.9 In amending this requirement, we are not reducing the minimum size of local probation boards which will remain at seven members.

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.

8.2 The impact of this Order is purely internal to the Probation Service so there is no further impact on the public sector.

9. Contact

Richard Cullen at the Home Office Tel: 020 7217 0731 or e-mail: Richard.cullen@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.