EXPLANATORY MEMORANDUM TO

THE OFFENDER MANAGEMENT ACT 2007 (APPROVED PREMISES) REGULATIONS 2014

2014 No. 1198

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 purpose of this instrument is to make provision for the regulation, management and inspection of approved premises (formerly known as probation or bail hostels) which are managed by the public sector.

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

3.1 None.

4. Legislative context

4.1 This instrument is being made as a result of the reorganisation of probation services under powers in the Offender Management Act 2007 – specifically the abolition of the Probation Boards and Probation Trusts and the delivery of probation services by the National Probation Service and Community Rehabilitation Companies.

5. Territorial extent and application

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 Approved premises are approved by the Secretary of State in accordance with section 13 of the Offender Management Act 2007. Their primary purpose is to supervise high-risk offenders in residential facilities when they are released from prison on licence, as these offenders' risk of harm is such that they cannot go straight into private accommodation in the community.

7.2 At the time the Offender Management Act 2007 (Approved Premises) Regulations 2008 (the "2008 Regulations") were made most approved premises were operated by Probation Boards, with a small number being run by independent charitable bodies under contract to the National Offender Management Service (NOMS). The 2008 Regulations imposed more obligations on "other bodies" than on Boards and Trusts to reflect the different legal and contractual relationships that NOMS had with each type of approved premises operator. "Other bodies" were, in practice, independent operators.

7.3 There are no longer any probation boards, as these have all been replaced by probation trusts. Changes to the organisation of probation under the government's *Transforming Rehabilitation* programme will result in the abolition of Probation Trusts and the creation of a National Probation Service ("NPS") and 21 Community Rehabilitation Companies to deliver probation services.

7.4 The 2008 instrument would, if left unchanged, result in the "other body" obligations applying to the NPS as well as to independent operators. In practice, however, the NPS will be managed directly as a part of the Ministry of Justice. Probation Instruction 04/2011 contains the detailed policy in respect of the management and operation of approved premises by the NPS. The Instruction is available via http://www.justice.gov.uk/offenders/probationservice/probation-instructions/pi-archive-2011. (This Probation Instruction will apply to any other provider of approved premises as well, via the relevant contract.)

7.5 This instrument therefore reflects the *Transforming Rehabilitation* changes. It restates the obligations on providers of approved premises, other than the NPS, which will apply as before to the independent operators. It also removes references to Boards (which have all converted to Trusts) and to Trusts and ensures that the Secretary of State is not effectively under obligations to himself. It does not create any new obligations on other bodies operating approved premises.

8. Consultation outcome

8.1 No consultation was needed - the instrument is a technical change required to reflect the reorganisation of probation services.

9. Guidance

9.1 No guidance is needed - the instrument imposes no new obligations on external bodies.

10. Impact

10.1 There will be no impact on business, charities or voluntary bodies. While the instrument applies to voluntary bodies that operate approved premises, the obligations on them are the same as under the 2008 Regulations.

10.2 There will be no impact on the public sector, for the same reasons.

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 Compliance with the instrument will continue to be monitored through contractual arrangements between providers of approved premises and NOMS. As the regulations make no substantive changes, no other monitoring is planned.

13. Contact

Seán Langley at the Ministry of Justice (National Offender Management Service) can answer any queries regarding the instrument. Tel: 030 0047 4486 or email: sean.langley@noms.gsi.gov.uk.