EXPLANATORY MEMORANDUM TO

THE OFFENDER MANAGEMENT ACT 2007 (ESTABLISHMENT OF PROBATION TRUSTS) (AMENDMENT) ORDER 2012

2012 No. 1215

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 instrument makes a technical amendment which designates the Wales Probation Trust (the Trust) as a "Welsh probation trust". This will enable the Auditor General for Wales to arrange for the auditing of the Trust (which was previously the responsibility of the Audit Commission).

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

3.1 None.

4. Legislative Context

4.1 Under section 5 (1) of the Offender Management Act 2007 (the Act), the Secretary of State may by order establish a probation trust for purposes specified in the order.

4.2 Paragraph 13(1) of Schedule 1 to the Act provides that a probation trust must keep proper accounts and proper records in relation to the accounts; and prepare in respect of each financial year a statement of accounts.

4.3 Paragraph 13(3) provides that the Auditor General for Wales may examine any accounts of a Welsh probation trust, any records relating to the accounts and any auditor's report on them.

4.4 Paragraph 13(6) defines `"Welsh probation trust" as "a probation trust which is for the time being designated as such by the order establishing it under section 5(1)".

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 On 1 April 2010, the Offender Management Act 2007 (Establishment of Probation Trusts) Order 2010 (No 195) established Wales Probation Trust. It did not designate the Trust as a Welsh Probation Trust.

7.2 Responsibility for the auditing of Wales Probation Trust resided with the Audit Commission, which appointed an auditor in consultation with the Auditor General for Wales. The dissolution of the Audit Commission and the transfer of auditing responsibility for the 34 English probation trusts to the Comptroller and Auditor General necessitate a change to the legislative arrangements. To enable the Auditor General for Wales to oversee the auditing of the Wales Probation Trust, this Order designates the Trust as a Welsh probation trust.

8. Consultation outcome

8.1 The primary stakeholders for this Order are Wales Probation Trust, the Wales Office and the Auditor General for Wales. All of these parties have been consulted and are content.

9. Guidance

9.1 The primary stakeholders have been consulted and do not require additional guidance.

10. Impact

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

10.2 There is no impact on the public sector except that responsibility for overseeing the auditing of Wales Probation Trust will reside with the Auditor General for Wales.

10.3 An Impact Assessment has not, therefore, been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The purpose of this amendment is to ensure that Wales Probation Trust will be audited by auditors appointed by the Auditor General for Wales. No additional monitoring or review will be required.

13. Contact

13.1 Angie Munley at the Ministry of Justice (tel: 0300 047 6288 or email: angela.munley@noms.gsi.gov.uk) can answer any queries regarding the instrument.