**EXPLANATORY MEMORANDUM TO**

**THE PAROLE BOARD (AMENDMENT) RULES 2014**

**2014 No. 240**

**1.** This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

## 2. Purpose of the instrument

2.1 This instrument amends the Parole Board Rules of 2011 (''the 2011 Rules'') to remove the requirement for serving or retired judges to sit on and chair Parole Board oral panels hearing the cases of prisoners serving a life sentence or a sentence during Her Majesty's pleasure.

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

3.1 Following the Supreme Court judgment in Osborn, Booth and Reilly[1], the Ministry of Justice and the Parole Board will be looking at further changes to the 2011 Rules later this year. In particular, when considering the scope and nature of representation at parole hearings, the Ministry of Justice will look to amend paragraph 8 of the 2011 Rules following the 39th Report of Session 2010-12 from the Joint Committee on Statutory Instruments printed on 1 February 2012.

## 4. Legislative Context

4.1 Paragraph 5 of the 2011 rules provide that in respect of a hearing in the case of a prisoner serving a life sentence or a sentence during Her Majesty's pleasure, an oral panel shall consist of or include a sitting or retired judge and that the sitting or retired judge shall act as chair of the oral panel.

4.2 This instrument will remove the requirement that a sitting or retired judge should sit on and chair oral panels in respect of prisoners and those serving a sentence during Her Majesty's pleasure. When the amendments come into force, the Chairman of the Parole Board will be able to appoint any member, including sitting or retired judges, to sit on or chair such panels.

## 5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

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[1] [2013] UKSC 61

## 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 objective that informs this instrument is that the Parole Board should be able to deploy its members, whether judges or otherwise, in a flexible and efficient manner that enables the most experienced members, judicial or otherwise, to hear the most difficult and complex cases.

7.2 The Secretary of State for Justice has decided that by removing the requirement that sitting or retired judges should sit on and chair oral panels involving life sentence prisoners, the Parole Board will be able to adopt a flexible approach in assessing which of its members are best able to sit on and chair oral panels involving life sentence prisoners.

7.3 In making this decision, the Secretary of State noted that oral hearing panels which do not include sitting or retired judges already consider determinate cases and cases involving sentences of indeterminate public protection (IPP), which can be just as difficult and complex as the cases of life sentence prisoners.

7.4 The Parole Board already assesses non-judicial members as to whether they possess sufficient skills and experience to be effective in chairing IPP cases. Following the making of this instrument, the process of assessment and additional training will be extended to all members in respect of serving on and chairing life sentence panels.

## 8. Consultation outcome

8.1 The Secretary of State has consulted Lord Chief Justice before making this instrument. The Lord Chief Justice is supportive of the proposed change.

## 9. Guidance

9.1 The Parole Board publishes an Oral Hearings Guide. This will be updated following the making of this instrument.

## 10. Impact

10.1 No Regulatory Impact Assessment has been prepared as no impact on the private or voluntary sector is foreseen.

10.2 The impact on the public sector will be a more flexible and efficient system of Parole Board oral hearing panels.

## 11. Regulating small business

11.1 The enactment of this instrument will have no impact on small firms.

## 12. Monitoring & review

12.1 The performance of the Parole Board is monitored by its sponsor within the Ministry of Justice. Quarterly Accountability Review meetings are held at which performance and risk is discussed. These meetings are an appropriate forum at which the effectiveness of this instrument can be discussed.

## 13. Contact

13.1 Ed Bowie, Sponsorship Team, Arm's Length Bodies Division, Ministry of Justice, Tel: 020 3334 3334 or email: ed.bowie@justice.gsi.gov.uk, can answer any queries regarding the instrument.