EXPLANATORY MEMORANDUM TO

THE RECOVERY OF COSTS (REMAND TO YOUTH DETENTION ACCOMMODATION) (AMENDMENT) (No. 2) REGULATIONS 2014

2014 No. 981

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 Recovery of Costs (Remand to Youth Detention Accommodation) Regulations 2013 which make provision about the recovery of costs from local authorities in respect of children who are remanded to youth detention accommodation.

2.2 This instrument amends the amount the local authority for the child (designated by the court) is liable to pay the Youth Justice Board for England and Wales, where the child is detained on remand in a secure training centre.

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

3.1 The amount recoverable in respect of children detained on remand in secure training centres was recently decreased from £583 to £581 on 1 April 2014 by the Recovery of Costs (Remand to Youth Detention Accommodation) (Amendment) Regulations 2014. Agreement has subsequently been reached regarding the contract for Rainsbrook Secure Training Centre with the effect that a further reduction to the amount recoverable should come into force on 20 May 2014. Due to the timing of the contract negotiations, the new amount recoverable was not known when the most recent regulations were laid in Parliament on 11 March 2014.

4. Legislative Context

4.1 The Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 permits the Secretary of State to make provision about the recovery of costs, by regulations, from a local authority designated by the court, of a child remanded to youth detention accommodation and associated transport costs. Cost recovery may be undertaken by the Secretary of State, a provider of youth detention accommodation or the Youth Justice Board for England and Wales.

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 The fall in the level of youth secure remand, 24 per cent between 2008/9 and 2011/12, had not matched the decline in the youth custody population of 32 per cent over the same period. Furthermore 60 per cent of children remanded securely in 2011/12 were acquitted or did not go on to receive a custodial sentence. A better approach to remand was needed: one that maintains community-led supervision, education and training and is focused on reducing the potential for offending.

7.2 From 1 April 2013 local authorities were therefore given greater financial responsibility for the secure remand of youths. Section 103(2) of the LASPO Act 2012 allows the Secretary of State to make provision for the recovery of the costs from local authorities of all 12 to 17 year olds remanded to youth detention accommodation. The Recovery of Costs (Remand to Youth Detention Accommodation) Regulations 2013 came into force on 1 April 2013 and makes provision about the recovery of costs from local authorities in respect of children who are remanded to youth detention accommodation. Youth detention accommodation comprises secure children's homes, secure training centres and young offender institutions.

7.3 Secure training centres are run by private operators under contracts with either the Secretary of State or the Youth Justice Board for England and Wales. The Ministry of Justice will shortly be conducting a re-tendering exercise for three Secure Training Centres including Rainsbrook. In the meantime, an agreement has been reached with the current provider to continue to operate Rainsbrook Secure Training Centre during this re-tendering process. As part of this agreement, the price at which existing services have been provided has reduced due to reductions in operating costs and because PFI-related debt has now been paid.

8. Consultation outcome

8.1 The Ministry of Justice and the Youth Justice Board for England and Wales consulted on proposals to alter the level of costs recovered from local authorities from April 2013 onwards. An eight week consultation was undertaken through the paper *The new remand framework for children: allocation of new burdens funding to local authorities.* The consultation closed on 16 November 2012. The Ministry of

Justice and the Youth Justice Board's response to the consultation was published on 25 February 2013. Both the consultation paper and the response are available on the following link: https://consult.justice.gov.uk/digital-communications/remand-funding/

8.2 The changes to the amounts recoverable in this instrument are consequential to changes to contracts, the terms of existing contracts and changes to the youth secure estate. As a change in policy or procedure is not taking place, no further consultation has been conducted.

9. Guidance

9.1 The statutory instrument makes no changes to existing financial arrangements and transactions.

10. Impact

10.1 Local authorities will continue to pay for remands to youth detention accommodation according to demand for places in secure children's homes, secure training centres and young offender institutions. The price change reflects a change to Rainsbrook Secure Training Centre's contract.

10.2 An Impact Assessment has not been prepared for this instrument because no impact on the private or voluntary sector is foreseen.

11. Regulating small business

11.1 The legislation does not apply to small businesses.

12. Monitoring & review

12.1 The arrangements for the recovery of costs will continue to be reviewed on a regular basis and legislation amended accordingly.

13. Contact

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