

EXPLANATORY MEMORANDUM TO
THE OFFENDER MANAGEMENT ACT 2007 (APPROVED PREMISES)
REGULATIONS 2008

2008 No. 1263

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

2. Description

2.1 This instrument updates the arrangements for the regulation, management and inspection of Approved Premises (APs), which provide accommodation for individuals on bail and for offenders released on licence into the community. It takes account of new commissioning arrangements for probation introduced by Part 1 of the Offender Management Act 2007 (the OMA 2007) and ensures that, for APs that will be governed by contracts between the National Offender Management Service (NOMS) and probation trusts, the new public sector providers of probation services established under the OMA 2007, the appropriate regulations do not apply overlapping or contradictory requirements

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

3.1 None.

4. Legislative background

4.1 Section 13(1) of the OMA 2007 provides the Secretary of State with a power to approve premises in which accommodation is provided for persons granted bail and in connection with the supervision or rehabilitation of offenders.

4.2 Section 13(2) of the OMA 2007 enables the Secretary of State to make regulations for the regulation, management and inspection of APs. This is the first occasion on which this power has been used.

4.2 The power in section 13(2) replaces the identical regulation-making power in section 9(3) of the Criminal Justice and Court Services Act 2000.

4.3 This instrument revokes the Criminal Justice and Courts Services Act 2000 (Approved Premises) Regulations 2001 (S.I. 2005/850). This instrument carries over the regulatory framework for APs, while updating it to take account of recent developments in commissioning AP services (see paragraph 7 below).

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 (formerly known as probation and bail hostels) primarily provide enhanced supervision for offenders who have been released from prison on licence APs are managed by local probation boards, not for profit bodies, or, from 1 April 2008, the 6 new probation trusts (see below). APs are governed by regulations that set up a basic framework for their management, admissions criteria and residence conditions, inspection, and a number of other detailed matters. The most recent were the Criminal Justice and Court Services Act 2000 (Approved Premises) Regulations 2001 (SI 2001/850).
- 7.2 The OMA places the responsibility for providing probation services on the Secretary of State and enables the Secretary of State to provide services himself or to enter into contracts for their delivery. It also provides for the establishment of probation trusts, which will be the public sector providers of probation services. The new arrangements will replace the current probation structure of local probation boards established by Part 1 of the Criminal Justice and Court Services Act 2000. The arrangements are to be brought into force by geographical areas in phases, which means that for a time there will be two probation structure operating in England and Wales. On 1 April 2008, six local probation boards were abolished and the following probation trusts were established: Dyfed Powys, Humberside, Leicestershire & Rutland, Merseyside, South Wales, and West Mercia. The contracts between these six probation trusts and NOMS include a service specification covering, among other things, the offender management services that the probation trusts will provide, which includes APs. The contracts also enable services and payments to be specified in detail. Because the trust contracts contain a high degree of detail on the day-to-day management of APs managed by probation trusts, , the regulations governing the management of APs no longer require the same level of detail in respect of those APs.
- 7.3 Although most APs in England & Wales are operated either by local probation boards or by the six new probation trusts, a small number are operated by other, not-for-profit, bodies within the overall framework. These are generally known as voluntary APs. They are an integral part of the AP network and are used by boards and probation trusts for placing offenders in the same way that the other APs are. At the moment there are no plans to change the AP arrangements in probation trust areas and the voluntary-operated ones are expected to continue. Of the first six probation trusts, only Merseyside has a voluntary-run AP in its area. Although arrangements are in place between NOMS and the voluntary bodies, regulations still need to apply to APs managed by them in order to ensure that they are operated consistently within the framework that applies to the public-sector APs.
- 7.4 This instrument therefore carries over the basic provisions from the 2001 regulations, but in general applies them only to local probation boards and voluntary bodies, so that they do not apply to probation trusts. In summary:

Part I of the instrument is interpretation, application and revocation.

Part II contains two provisions that will still apply to all three types of body:

- residence conditions (regulation 5) - this provision sets out the core purpose of APs, which applies equally whichever type of body is running them; and
- periods of leave for residents (regulation 6) - this provision establishes a right for residents, which also applies equally to APs managed by all three types of body.

Part III carries over most of the remaining provisions of the 2001 regulations, but applies them only to boards and other bodies:

- general duties of boards and other bodies in operating APs (regulation 7);
- a requirement to operate an admissions policy (regulation 8);
- rules setting out when a person's residence can be terminated (regulation 9);
- notification requirements if a resident absconds (regulation 10);
- a provision allowing residents to be charged expenses in respect of their maintenance (regulation 11);
- a requirement that medical care be made available (regulation 12); and
- requirement on boards and other bodies to keep records (regulation 13) and to be open to inspection (regulation 14).

Part IV applies only to other bodies. It requires other bodies to establish management committees for each of their APs and reflects the provisions of the 2001 Act in this regard.

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 on the public sector is explained in paragraphs 7.2 to 7.4 above.

9. Contact

Seán Langley at the Ministry of Justice (tel: 020 7217 8226 or e-mail: sean.langley5@homeoffice.gsi.gov.uk) can answer any queries regarding the instrument.