

**LORDS AMENDMENTS TO THE
OFFENDER MANAGEMENT BILL**

[The page and line references are to HL Bill 47, the bill as first printed for the Lords.]

Clause 1

- 1** Page 2, line 17, at end insert –
““prison” includes a young offender institution and a secure training centre;”

Clause 2

- 2** Page 2, line 34, after “State” insert “under any enactment (whenever passed or made)”
- 3** Page 2, line 35, leave out “section” and insert “paragraph”
- 4** Page 3, line 11, leave out subsection (6)
- 5** Page 3, line 16, leave out from “(c. 30))” to end of line 17

Clause 3

- 6** Page 3, line 21, leave out “Secretary of State” and insert “probation boards and probation trusts”
- 7** Page 3, line 28, leave out “designate individuals” and insert “authorise individuals under section 7(2) to act”
- 8** Page 3, line 35, at end insert –
“(3A) If it appears to the Secretary of State that sufficient provision of probation services is not being, or will not be, made in accordance with the arrangements under subsection (2), he shall –
(a) make contractual or other arrangements with any other person for the making of the probation provision; or
(b) make the probation provision himself.”
- 9** Page 3, line 36, leave out from beginning to “, he” in line 37 and insert “Where the

Secretary of State makes probation provision himself in accordance with subsection (3A)(b)”

10 Page 3, line 37, leave out from “himself,” to end of line 40 and insert “he shall make arrangements for the making of that probation provision (and for the avoidance of doubt the members of staff through whom he may act in making and carrying out those arrangements include prison officers or other persons employed at a prison).”

11 Page 3, line 46, at end insert –

“(6) In carrying out their functions under this Part, and in particular in providing any assistance to the courts and to the Parole Board for England and Wales, providers of probation services and their officers shall ensure that such assistance does not give rise to any conflict of interest between their obligation to give such advice impartially and the financial interest of the provider.”

After Clause 3

12 Insert the following new Clause –

“Requirement for probation trusts and probation boards to prepare plans

- (1) Each probation trust and probation board shall provide a plan for the forthcoming financial year at least four months before the commencement of that year.
- (2) A plan submitted under subsection (1) shall set out for the trust or board –
 - (a) its anticipated probation service needs;
 - (b) from whom it proposes to commission services; and
 - (c) the cost of those services.
- (3) Where the Secretary of State considers that sufficient provision will not be made, he may modify the plan.
- (4) Any modifications made by the Secretary of State shall be made no later than one month before the start of the financial year covered by the plan.”

Clause 4

13 Page 4, line 2, leave out “3(2)” and insert “3”

Clause 5

14 Page 4, line 42, leave out subsections (6) and (7)

After Clause 6

15 Insert the following new Clause –

“National standards for the management of offenders

- (1) The Secretary of State shall continue to publish national standards for the management of offenders.

- (2) The national standards may in particular include standards relating to the management of offenders held in custody.
- (3) In exercising his powers under section 3(2) the Secretary of State shall have regard to the need to secure, so far as practicable, that the arrangements in force from time to time provide for the national standards to have the same effect in relation to every provider of probation services carrying out the activities to which the standards apply.”

16 Insert the following new Clause –

“Annual plans etc

- (1) The Secretary of State shall at least once in every year consult the Welsh Ministers, and such other persons as he thinks fit, about the provision that should be made for the purposes mentioned in section 2(1) for the following year.
- (2) The Secretary of State shall, before the end of each year, publish an annual plan for the following year which sets out the way in which the Secretary of State proposes to –
 - (a) discharge his functions under section 2(1) and (2) during that year; and
 - (b) carry out any arrangements which he expects to be in force under section 3(4) for that year.
- (3) The Secretary of State shall have regard to the annual plan published under subsection (2) for any year –
 - (a) in discharging his functions under section 2(1) and (2) during that year; and
 - (b) in making or carrying out arrangements under section 3(3A) or (4) for that year.
- (4) Arrangements made by the Secretary of State under section 3(3A) or (4) with a person other than a probation trust shall, if the Secretary of State thinks fit, require that person to publish an annual plan for each year in which it expects to carry out any specified activities.
- (5) In subsection (4) –

“annual plan” means a plan setting out the way in which the person required to publish the plan proposes to carry out any specified activities during the year to which the plan relates;

“specified activities”, in relation to a person with whom arrangements under section 3(4) or (5) are made, means activities of a description specified in those arrangements for the purposes of subsection (4) above.
- (6) In this section “year” means a period of 12 months ending with 31st March.”

Clause 7

17 Page 5, line 14, leave out from “under” to end of line 16 and insert “subsection (2) (and “officer”, in relation to a particular provider of probation services, means a person so authorised to act as an officer of that provider).”

18 Page 5, line 17, leave out “as an officer of the relevant provider” and insert “to act

as an officer of a particular provider of probation services (“the relevant provider”)

19 Page 5, line 23, leave out subsection (4)

After Clause 7

20 Insert the following new Clause –

“National framework for qualifications of officers

- (1) The Secretary of State may publish guidelines about any qualifications, experience or training required to perform the work of an officer of a provider of probation services.
- (2) The Secretary of State must publish guidelines under subsection (1) in relation to work involving the supervision of offenders and other work requiring direct contact with offenders (including offenders held in custody).
- (3) Guidelines under this section may make different provision for different purposes.
- (4) In exercising his powers under section 3(2) and (4) and 7 the Secretary of State shall have regard to the need to secure, so far as practicable, that guidelines published under this section have the same effect in relation to every provider of probation services whose officers perform work to which they relate.”

Clause 11

21 Page 8, line 2, leave out “(whenever passed or made)” and insert “passed or made before the end of the Session in which this Act is passed”

After Clause 12

22 Insert the following new Clause –

“Procedure for orders under section 12

- (1) The Secretary of State must not make an order under section 12 unless –
 - (a) a draft of the order has been laid before and approved by a resolution of each House; and
 - (b) each of the resolutions for approving the draft was agreed more than 60 days after the day on which the draft was laid before the House in question.
- (2) No draft order under section 12 is to be laid before Parliament unless –
 - (a) the Secretary of State has prepared and published a report containing a proposal for the making of such provision;
 - (b) the report sets out the Secretary of State’s reasons for making the proposal;
 - (c) the report has been laid before Parliament and each House has approved the proposal contained in the report, either with or without modifications; and

- (d) the draft order gives effect to the proposal so far as approved by both Houses.
- (3) An approval given in either House satisfies the requirements of subsection (2)(c) only if it was given in that House on the first occasion on which a motion for the approval of the proposal was made in that House by a Minister of the Crown after –
 - (a) the laying of the report; or
 - (b) if more than one report containing that proposal has been laid before that House, the laying of the one laid most recently.
- (4) In reckoning a period of 60 days for the purposes of subsection (1), no account shall be taken of a day for which –
 - (a) Parliament is dissolved or prorogued; or
 - (b) the House in question is adjourned as part of an adjournment for more than four days.”

23 Insert the following new Clause –

“Probation report

- (1) Within a period of six months of the coming into force of this Act, the Secretary of State shall lay a report before both Houses of Parliament containing –
 - (a) a review of the proposals contained within the report published on 11th December 2003 “Managing Offenders, Reducing Crime: A New Approach”;
 - (b) the collated responses to the consultation document “Restructuring Probation to Reduce Re-Offending”;
 - (c) a review of the responses referred to in paragraph (b); and
 - (d) proposals for reform of the Probation Service.
- (2) The Secretary of State must include in a report under subsection (1) notification of when he will exercise his power under section 38(1A).”

Clause 19

24 Page 12, line 25, at end insert –

- “(4A) The reference in paragraph (b), (c) or (d) of list B to a device of any description includes a reference to –
- (a) a component part of a device of that description; or
 - (b) an article designed or adapted for use with a device of that description (including any disk, film or other separate article on which images, sounds or information may be recorded).”

25 Page 13, line 3, at end insert “prison rules or by”

26 Page 13, line 6, at end insert –

“In paragraph (a) “specified” means specified in the authorisation.”

Clause 20

27 Page 15, line 32, at end insert –

“In paragraph (a) “specified” means specified in the authorisation.”

After Clause 22

28 Insert the following new Clause –

“Independent monitoring boards

- (1) The boards appointed under section 6 of the Prison Act 1952 (c. 52) (boards of visitors) are renamed as independent monitoring boards.
- (2) Accordingly, in section 6 of that Act –
 - (a) for the sidenote there is substituted “Independent monitoring boards”;
 - (b) in subsection (2), for “board of visitors” there is substituted “group of independent monitors”;
 - (c) after subsection (2) there is inserted –
 - “(2A) The groups so appointed are to be known as independent monitoring boards.”; and
 - (d) in subsection (3), for “boards of visitors” there is substituted “independent monitoring boards” and for “a board of visitors” there is substituted “an independent monitoring board”.
- (3) In section 6(2) of that Act the words from “of whom” to the end cease to have effect.”

Clause 25

29 Page 19, line 18, at end insert –

- “(8) The power to make rules under subsection (6) is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”

Clause 30

- 30 Page 21, line 1, leave out paragraph (b)
- 31 Page 21, line 7, leave out paragraph (b)
- 32 Page 21, line 13, leave out paragraph (b)
- 33 Page 21, line 16, leave out subsection (5)

Clause 31

34 Leave out Clause 31

Clause 33

- 35 Page 23, line 1, leave out “under” and insert “or regulations under –
() section 5(1) or (3)(c),”
- 36 Page 23, line 10, leave out “5(1) or”

Clause 35

37 Page 23, line 40, after “Session” insert “after that”

Clause 38

38 Page 24, line 15, leave out subsection (1) and insert—

- “(1) Section (*Probation report*) comes into force on the day on which this Act is passed.
- (1A) Apart from section (*Probation report*), Part 1 of this Act comes into force on such day as the Secretary of State may appoint by order made by statutory instrument, but no such order may be made until the end of a period of 60 days commencing with the laying of a report under section (*Probation report*).
- (1B) Parts 2 to 4 of this Act shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument.”

Schedule 1

39 Page 25, line 18, at end insert—

- “(3) Where practicable, at least one of the appointed members of a probation trust must, when appointed, be a member of a relevant local authority.
- (4) For the purposes of sub-paragraph (3) “relevant local authority” means—
- (a) a county council, district council or parish council in England, a London Borough council, the Common Council of the City of London or the Council of the Isles of Scilly; or
 - (b) a county council, county borough council or community council in Wales.”

40 Page 26, line 17, leave out “Subject to sub-paragraph (2),”

41 Page 26, line 22, leave out sub-paragraphs (2) and (3)

42 Page 27, line 22, leave out “the trust” and insert “a probation trust”

43 Page 27, line 23, at end insert—

- “(2A) 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.”

44 Page 27, line 24, leave out sub-paragraph (3) and insert—

- “(3) In the Audit Commission Act 1998 (c. 18)—
- (a) in section 11(2) (consideration of reports etc), after paragraph (f) there is inserted—
 - “(fa) probation trusts;”;
 - (b) in paragraph 1 of Schedule 2 (bodies subject to audit), after paragraph (p) there is inserted—
 - “(q) a probation trust (other than a Welsh probation trust as defined in paragraph 13(4) of Schedule 1 to the Offender Management Act 2007).”
- (3A) In the Public Audit (Wales) Act 2004 (c. 23)—
- (a) in section 12(1) (local government bodies in Wales), after paragraph (i) there is inserted—

- “(j) a Welsh probation trust (as defined by paragraph 13(4) of Schedule 1 to the Offender Management Act 2007).”;
- (b) in section 24(2) (consideration of reports in public interest), after paragraph (d) there is inserted –
 - “(e) a probation trust.”; and
- (c) in section 25(3) (procedure for consideration of reports etc), after paragraph (d) there is inserted –
 - “(e) a probation trust.””

- 45 Page 27, line 36, at end insert “; and
 “Welsh probation trust” means a probation trust which is for the time being designated as such by the order establishing it under section 5(1).”

Schedule 3

- 46 Page 32, line 30, at end insert –

“PART

NEW ARRANGEMENTS FOR THE PROVISION OF PROBATION SERVICES

“*Race Relations Act 1976 (c. 74)*

In Part 2 of Schedule 1A to the Race Relations Act 1976 (bodies and other persons subject to general statutory duty under section 71), under the heading “*Other Bodies, Etc*” there are inserted, at the appropriate places, the following entries –

“A probation trust.”

“A provider of probation services (other than the Secretary of State or a probation trust), in respect of its statutory functions and the carrying out by it of activities of a public nature in pursuance of arrangements made with it under section 3(2) of the Offender Management Act 2007.””

- 47 Page 32, line 30, at end insert –

“*Interpretation Act 1978 (c. 30)*

In Schedule 1 to the Interpretation Act 1978 (words and expressions defined) there is inserted, at the appropriate places –

“Officer of a provider of probation services” in relation to England and Wales, has the meaning given by section 7(1) of the Offender Management Act 2007;”;

“Provider of probation services”, in relation to England and Wales, has the meaning given by section 3(5) of the Offender Management Act 2007;”.

- 48 Page 32, line 30, at end insert –

“*Crime and Disorder Act 1998 (c. 37)*

- (1) The Crime and Disorder Act 1998 is amended as follows.

- (2) In section 38(2) (provision of youth justice services), after paragraph (a) (but before the “and” following it) there is inserted –
- “(aa) the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007;
 - (ab) every provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 to carry out the duty under this subsection in relation to the local authority;”.
- (3) In section 39 (youth offending teams) –
- (a) in subsection (3), after paragraph (a) (but before the “and” following it) there is inserted –
 - “(aa) the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007;
 - (ab) every provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 to carry out the duty under this subsection in relation to the local authority;”;
 - (b) in subsection (5)(a), after “board” there is inserted “or an officer of a provider of probation services”.
- (4) In section 41(10) (the Youth Justice Board) and 42(3) (supplementary provisions), after “probation board” there is inserted “a provider of probation services”.

49 Page 32, line 30, at end insert –

“Children Act 2004 (c. 31)

- (1) The Children Act 2004 is amended as follows.
- (2) In section 10(4) (co-operation to improve wellbeing: relevant partners), after paragraph (c) there is inserted –
- “(ca) the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007, so far as they are exercisable in relation to England;
 - (cb) any provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 to act as a relevant partner of the authority;”.
- (3) In section 11(1) (persons required to make arrangements to safeguard and promote welfare), after paragraph (j) there is inserted –
- “(ja) the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007, so far as they are exercisable in relation to England;”.
- (4) In section 13(3) (establishment of LSCBs: Board Partners), after paragraph (c) there is inserted –
- “(ca) the Secretary of State in relation to any of his functions under sections 2 and 3 of the Offender Management Act 2007, so far as they are exercisable in relation to England;
 - (cb) any provider of probation services that is required by arrangements under section 3(2) of the Offender

Management Act 2007 to act as a Board partner of the authority;”.

- (5) In section 25(4) (co-operation to improve wellbeing in Wales: relevant partners), after paragraph (b) there is inserted –
- “(ba) the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007, so far as they are exercisable in relation to Wales;
 - (bb) any provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 to act as a relevant partner of the authority;”.
- (6) In section 28(1) (persons required to make arrangements to safeguard and promote welfare in Wales), after paragraph (f) there is inserted –
- “(fa) the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007, so far as they are exercisable in relation to Wales;”.
- (7) In section 31(3) (establishment of LSCBs in Wales), after paragraph (b) there is inserted –
- “(ba) the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007, so far as they are exercisable in relation to Wales;
 - (bb) any provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 to act as a Board partner of the authority;”.

50 Page 32, line 30, at end insert –

“Local Government and Public Involvement in Health Act 2007

- (1) Section 80 of the Local Government and Public Involvement in Health Act 2007 (application of Chapter 1 of Part 5: partner authorities) is amended as follows.
- (2) In subsection (3)(g) –
- (a) the “and” after sub-paragraph (ii) is omitted;
 - (b) after sub-paragraph (iii) there is inserted “;
 - (iv) his functions under sections 2 and 3 of the Offender Management Act 2007 (responsibility for ensuring the provision of probation services throughout England and Wales).”
- (3) After subsection (5) there is inserted –
- “(5A) The Secretary of State’s functions under this Chapter as a partner authority of a local authority in relation to the functions referred to in subsection (3)(g)(iv) are functions to which section 2(1)(c) of the Offender Management Act 2007 (functions to be performed through arrangements under section 3 of that Act) applies.”

51 Page 32, line 30, at end insert –

“PART 2

PRISONS

Prison Act 1952 (c. 52)

In section 19 of the Prison Act 1952 (right of justices to visit prison), in subsection (3) for “visiting committee or the board of visitors” there is substituted “independent monitoring board”.

Race Relations Act 1976 (c. 74)

In Part 2 of Schedule 1A to the Race Relations Act 1976 (public bodies and other persons subject to general statutory duty), there is inserted, in the appropriate place under the heading “Other Bodies Etc.”, the following entry –

“An Independent Monitoring Board appointed under section 6(2) of the Prison Act 1952.”

Employment Rights Act 1996 (c. 18)

In section 50 of the Employment Rights Act 1996 (right to time off for public duties) –

- (a) in subsection (2)(d), for “a board of prison visitors” there is substituted “an independent monitoring board for a prison”; and
- (b) in subsection (7)(a), for the words from the beginning to “of visitors” there is substituted ““independent monitoring board” means a board”.

Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)

In section 99 of the Powers of Criminal Courts (Sentencing) Act 2000 (conversion of sentence of detention or custody to sentence of imprisonment), in subsection (1)(b) for “board of visitors” there is substituted “independent monitoring board”.

Freedom of Information Act 2000 (c. 36)

In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities: other public bodies and offices) there is inserted, in the appropriate place, the following entry –

“Any Independent Monitoring Board established under section 6(2) of the Prison Act 1952.”

52 Page 34, line 35, leave out sub-paragraph (2)

Schedule 5

53 Page 38, line 13, at end insert –

“Local Government and Public Involvement in Health Act 2007 (c. 00)	In section 80(3), the word “and” after paragraph (g)(ii).”
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54 Page 38, line 17, column 2, at beginning insert—

“In section 6(2), the words from “of whom” to the end.”

55 Page 38, line 23, at end insert—

“Race Relations Act 1976 (c. 74) | In Part 2 of Schedule 1A, the entry relating to a board of visitors for a prison.”

56 Page 38, line 28, at end insert—

“Freedom of Information Act | In Part 6 of Schedule 1, the entry relating to a
2000 (c. 36) board of visitors for a prison.”

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*Ordered, by The House of Commons,
to be Printed, 16th July 2007.*

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PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON: THE STATIONERY OFFICE
Printed in the United Kingdom by
The Stationery Office Limited