

POLICY NOTE

THE COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015 (COMMENCEMENT NO. 3 AND SAVINGS) ORDER 2015

SSI 2015/399 (C. 50)

1. The above instrument is made in exercise of the powers conferred by section 145(2) and (3) of the Community Empowerment (Scotland) Act 2015.

Commencement

2. A number of provisions in the Community Empowerment (Scotland) Act 2015 (the “2015 Act”) came into force on the day following Royal Assent (ie on 24 July 2015).

3. The Order will bring into force further provisions in the 2015 Act, namely sections 1 to 3 of the 2015 Act on national outcomes, and amendments to Part 2 and Part 4 of the Land Reform (Scotland) Act 2003 (“the 2003 Act”) on the community right to buy land under Part 2 of the 2003 Act.

4. Article 2 of this Order appoints 15 April 2016 as the day on which the provisions of the 2015 Act listed in the Schedule come into force. Some come into force only for specific purposes.

5. Commencing sections 1 to 3 of the 2015 Act will place a duty on Scottish Ministers to consult on, determine and publish national outcomes and to regularly report on progress towards these. The national outcomes must also be reviewed at least once every five years.

6. The remaining provisions will enable changes to the community right to buy to come into force on 15 April 2015. They will allow bodies (community bodies) representing communities throughout Scotland with rights to register an interest in land to purchase that land if the owner is willing to sell it, in respect of all new applications to register an interest in land made on or after that day. This revised community right to buy will give these community bodies a refreshed and more flexible regime to acquire land, where there is a willing seller. This includes, among the provisions, increased flexibility in the types of community bodies they can set up (section 37), a broader range of circumstances to submit an application to register an interest in land where steps have already been taken by the landowner to market it or dispose of it (section 42), a balloter appointed by Ministers to conduct a ballot on the community body’s proposal to buy land (section 49), a more robust process for the valuation of the land which the community body is seeking to acquire (section 56), prescribed information for Ministers to consider when deciding whether to give consent to a community body on proceeding with the right to buy (section 50), and for a range of administrative changes which provide a better administrative arrangements for all parties involved in the community right to buy (e.g. sections 38, 43, 46, 60). It extends the

circumstances in which a creditor in a standard security with the right to sell land can appeal (section 58). It also provides for the first time a duty to provide information about the community right to buy (section 61), and for mediation (section 75).

Saving provisions

7. Article 3 makes savings to the modifications to the community right to buy in Part 2 of the 2003 Act. In essence the unamended 2003 Act will continue to apply to all parts of the Part 2 process if the application was made before 15th April 2016. This means that an application to register an interest in land that was made before 15 April 2016, together with a community interest in land which relates to an application to register a community interest in land made before that date and a right to buy arising under the community right to buy provisions also made before that day will not come under the new community right to buy regime that will come into place on 15 April 2016.

8. In addition, it is also necessary to ensure that savings are also made in respect of a number of appeals that can arise out of the community right to buy process and the valuation process.

Consultation

9. A public consultation was carried out for the Community Empowerment (Scotland) Bill in 2012 and 2013. Specific provisions on the community right to buy and questions on putting the national outcomes approach into legislation were included in the consultation in 2013. The consultations and responses to them are available on the Scottish Government website at <http://www.gov.scot/Topics/People/engage/Bill-Consultations>

Stakeholders have been informed of the commencement plan for the 2015 Act in relation to the community right to buy and in relation to national outcomes, but there has been no formal consultation carried out for this Order.

Impacts

10. A Business Regulatory Impact Assessment and Equality Impact Assessment were carried out for the Community Empowerment (Scotland) Bill. An Equality Impact Assessment was also carried out for the Community Empowerment (Scotland) Bill and is available on the Scottish Government website at <http://www.gov.scot/Topics/People/engage/eiapt4>. This Order has no effect on any equality issues.

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