
DRAFT STATUTORY INSTRUMENTS

2012 No.

The Assets of Community Value (England) Regulations 2012

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Assets of Community Value (England) Regulations 2012 and shall come into force on the day after they are made.

(2) These Regulations apply in relation to England only.

(3) In these Regulations—

“the Act” means the Localism Act 2011;

“compensation review” means a review requested in accordance with regulation 16;

“the list”, in relation to a local authority, means the list maintained by the authority of land in that authority’s area that is land of community value, and “listed” and “listing” are to be interpreted accordingly;

“listing review” means a review under section 92(2) of the Act (review of local authority’s decision to include land in its list);

“neighbouring authority”: a local authority in England is a neighbouring authority in relation to any land if any part of the boundary of that authority’s area is also part of the boundary of the area of the responsible authority;

“registrar”, “register” (other than in regulation 4(3)) and “registered estate” have the meaning given in section 132(1) of the Land Registration Act 2002(1);

“responsible authority” in relation to any land means the local authority in whose area the land is situated;

“a statutory compulsory purchase” in relation to any land, means a purchase of the land by a purchaser authorised by or under an Act to acquire the land compulsorily (whether or not a purchase pursuant to the authorisation).

(4) For the purposes of these Regulations, land is owned by a single owner if—

(a) the land is owned by the same person; or

(b) in a case not within sub-paragraph (a), the land is held on trusts and was settled on those trusts by the same settlor.

List of assets of community value

2. A local authority must as soon as practicable after receiving information that enables it to do so make the following amendments to an entry on the list—

(a) add to the entry—

(i) the information that, during the six weeks beginning with the date of receipt of a notice under section 95(2) of the Act in respect of any of the land to which the entry applies, it has received a request from a community interest group with a local

(1) 2002 c.9. There have been amendments to section 132 which are not relevant to these Regulations.

- connection to be treated as a potential bidder in relation to land to which the notice relates;
 - (ii) the name of that community interest group; and
 - (iii) that restrictions on entering into a relevant disposal of the land to which the notice relates continue to apply during the six months beginning with the date the notice was received, but at the end of that six months will then not apply for a further twelve months;
- (b) amend or, as the case may be, remove the entry so as to exclude any of the land that has since it was included in the list been the subject of a relevant disposal other than one referred to in section 95(5) of the Act; and
- (c) remove the entry if—
- (i) an appeal against listing is successful, or
 - (ii) the authority for any reason no longer considers the land to be land of community value.

Land which may not be listed

3. A building or other land within a description specified in Schedule 1 is not land of community value (and therefore may not be listed).

Definition of local connection

4.—(1) For the purposes of these regulations and section 89(2)(b)(iii) of the Act, a body other than a parish council has a local connection with land in a local authority's area if—

- (a) the body's activities are wholly or partly concerned—
 - (i) with the local authority's area, or
 - (ii) with a neighbouring authority's area;
 - (b) in the case of a body within regulation 5(1)(c), (e) or (f), any surplus it makes is wholly or partly applied—
 - (i) for the benefit of the local authority's area, or
 - (ii) for the benefit of a neighbouring authority's area; and
 - (c) in the case of a body within regulation 5(1)(c) it has at least 21 local members.
- (2) For the purposes of these regulations and section 89(2)(b)(iii) of the Act—
- (a) a parish council has a local connection with land in another parish council's area if any part of the boundary of the first council's area is also part of the boundary of the other council's area; and
 - (b) a parish council has a local connection with land that is in a local authority's area but is not in any parish council's area if—
 - (i) the council's area is within the local authority's area, or
 - (ii) any part of the boundary of the council's area is also part of the boundary of the local authority's area.

(3) In paragraph (1)(c), "local member" means a member who is registered, at an address in the local authority's area or in a neighbouring authority's area, as a local government elector in the

register of local government electors kept in accordance with the provisions of the Representation of the People Acts(2).

Voluntary or community bodies

5.—(1) For the purposes of section 89(2)(b)(iii) of the Act, but subject to paragraph (2), “a voluntary or community body” means—

- (a) a body designated as a neighbourhood forum pursuant to section 61F of the Town and Country Planning Act 1990(3);
- (b) a parish council;
- (c) an unincorporated body—
 - (i) whose members include at least 21 individuals, and
 - (ii) which does not distribute any surplus it makes to its members;
- (d) a charity;
- (e) a company limited by guarantee which does not distribute any surplus it makes to its members;
- (f) an industrial and provident society which does not distribute any surplus it makes to its members; or
- (g) a community interest company(4).

(2) A public or local authority may not be a voluntary or community body, but this does not apply to a parish council.

(3) In this regulation “industrial and provident society” means a body registered or deemed to be registered under the Industrial and Provident Societies Act 1965(5) which meets one of the conditions in section 1 of that Act

Contents of community nominations

6. A community nomination must include the following matters—

- (a) a description of the nominated land including its proposed boundaries;
- (b) a statement of all the information which the nominator has with regard to—
 - (i) the names of current occupants of the land, and
 - (ii) the names and current or last-known addresses of all those holding a freehold or leasehold estate in the land;
- (c) the nominator’s reasons for thinking that the responsible authority should conclude that the land is of community value; and
- (d) evidence that the nominator is eligible to make a community nomination.

(2) See in particular section 2 of the Representation of the People Act 1983 (c.2), inserted by section 1 of the Representation of the People Act 2000 (c.2).

(3) 1990 c.8. Section 61F was inserted by paragraphs 1 and 2 of Schedule 9 to the Localism Act 2011, with effect from 6th April 2012, in accordance with article 8(a) of the Localism Act 2011 (Commencement No. 4 and Transitional, Transitory and Saving Provisions) Order 2012, S.I. 2012/628.

(4) A community interest company is a company which satisfies the requirements of Part 2 of the Companies (Audit, Investigations and Community Enterprise Act 2004 (c.27). See in particular sections 26, 35 and 36A. There have been amendments to section 26 and a substitution of section 36A which are not significant for these Regulations.

(5) 1965 c.12. There have been amendments to section 2 of the 1965 Act which are not significant for these Regulations. Section 1 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010 (c.7) substitutes new wording for section 2 of the 1965 Act, and amends the title of that Act to the Co-operative and Community Benefit Societies and Credit Unions Act 1965, on a date to be appointed.

Procedure when considering whether to list land

7. The responsible authority must decide whether land nominated by a community nomination should be included in the list within eight weeks of receiving the nomination.

8. A local authority which is considering whether land nominated by a community nomination should be included in the list must take all practicable steps to give the information that it is considering listing the land to—

- (a) a parish council if any of the land is in the council's area;
- (b) the owner of the land;
- (c) where the owner is not the freeholder—
 - (i) the holder of the freehold estate in the land; and
 - (ii) the holder of any leasehold estate in the land other than the owner; and
- (d) any lawful occupant of the land.

Notice of inclusion or removal

9. A local authority which gives notice under section 91 of the Act must, in addition to the persons specified in that section, give it to—

- (a) where they are not the owner, the holder of the freehold estate in the land and the holder of any leasehold estate in the land, and
- (b) a parish council if any of the land is in the council's area.

Procedure to be followed for listing review

10. Where an owner of listed land asks the responsible authority to carry out a listing review, the review is to be carried out in accordance with the procedure set out in Schedule 2.

Appeal against listing review decision

11.—(1) An owner of listed land may appeal to the First-Tier Tribunal against the local authority's decision on a listing review in respect of the land.

(2) The owner referred to in paragraph (1) may be either the owner who requested the review, or a subsequent owner of part or the whole of the land.

Community interest groups

12. For the purposes of these regulations and section 95(3)(a) of the Act—

- (a) a parish council is a community interest group in relation to land to which a notice under section 95(2) of the Act relates if any of the land is in the council's area; and
- (b) a body is a community interest group in relation to any land if the body—
 - (i) is within one or more of sub-paragraphs (d) to (g) of regulation 5(1); and
 - (ii) has a local connection with the land.

Moratorium

13.—(1) Where the responsible authority receives notice under section 95(2) of the Act in relation to any listed land, an owner of the land may enter into a relevant disposal of any of that land to a community interest group with a local connection at any time in the eighteen months beginning with the date of receipt of the notice.

(2) Section 95(1) of the Act does not apply to a relevant disposal of listed land in the cases set out in Schedule 3.

Compensation

14.—(1) An owner or former owner of listed land or of previously listed land, other than an owner or former owner specified in regulation 15, is entitled to compensation from the responsible authority of such amount as the authority may determine where the circumstances in paragraph (2) apply.

(2) The circumstances mentioned in paragraph (1) are that the person making the claim has, at a time when the person was the owner of the land and the land was listed, incurred loss or expense in relation to the land which would be likely not to have been incurred if the land had not been listed.

(3) For the avoidance of doubt, and without prejudice to other types of claim which may be made, the following types of claim may be made—

- (a) a claim arising from any period of delay in entering into a binding agreement to sell the land which is wholly caused—
 - (i) by relevant disposals of the land being prohibited by section 95(1) of the Act during any part of the relevant six weeks that is on or after the date on which the responsible authority receives notification under section 95(2) of the Act in relation to the land, or
 - (ii) in a case where the prohibition continues during the six months beginning with that date, by relevant disposals of the land being prohibited during any part of the relevant six months that is on or after that date; and
- (b) a claim for reasonable legal expenses incurred in a successful appeal to the First-Tier Tribunal against the responsible authority’s decision—
 - (i) to list the land,
 - (ii) to refuse to pay compensation, or
 - (iii) with regard to the amount of compensation offered or paid.

(4) In paragraph (3)(a) “the relevant six weeks” means the six weeks, and “the relevant six months” means the six months, beginning with—

- (a) the date on which the responsible authority receives notification under section 95(2) of the Act in relation to the land, or
- (b) if earlier, the earliest date on which it would have been reasonable for that notification to have been given by the owner who gave it.

(5) A claim for compensation must—

- (a) be made in writing to the responsible authority;
- (b) be made before the end of thirteen weeks after the loss or expense was incurred or (as the case may be) finished being incurred;
- (c) state the amount of compensation sought for each part of the claim; and
- (d) be accompanied by supporting evidence for each part of the claim.

(6) The responsible authority must give the claimant written reasons for its decisions with respect to a request for compensation.

15. The following are not entitled to compensation under regulation 14—

- (a) an authority or other body in respect of loss or expense incurred at a time when it has accounts which are required by section 2 of the Audit Commission Act 1998⁽⁶⁾ to be audited in accordance with that Act;
- (b) a department, authority or other body in respect of loss or expense incurred at a time when section 6 of the National Audit Act 1983⁽⁷⁾ (“the 1983 Act”) applies to it; and
- (c) an authority or body in respect of loss or expense incurred in any of its financial years if its use of resources in that year is examinable under section 7 of the 1983 Act.

Review by local authority of compensation decision

16.—(1) A person who has under regulation 14 made a claim for compensation may ask the responsible authority concerned to review either or both of its decisions, made in response to that claim, as to—

- (a) whether compensation should be paid to that person, and
- (b) if compensation is to be paid, the amount of that compensation.

(2) If a request for a compensation review is made in accordance with the provisions of paragraph 2 of Schedule 2, the authority must in accordance with the procedure in Schedule 2 review the decision or decisions of which review is requested.

(3) Where an authority carries out a compensation review, the authority must give written notification to the person who asked for the review of—

- (a) the decision on the review, and
- (b) the reasons for the decision.

Appeal against compensation review decision

17. Where a local authority has carried out a compensation review, the person who requested the review may appeal to the First-Tier Tribunal against any decision of the authority on the review.

Duty of local authority regarding restriction entered in the register in respect of listed land

18. Where a local authority which has caused a restriction in Form QQ⁽⁸⁾ to be entered in respect of a registered estate subsequently removes the land to which the registered estate relates from the list, the authority must as soon after doing so as is practicable apply to the registrar for cancellation of the restriction.

Duties of owners and mortgagees in respect of listed land

19.—(1) Where listed land is entered in the register on an application for first registration of the land made to the registrar—

- (a) by an owner of the land, or
- (b) under rule 21 of the Land Registration Rules 2003⁽⁹⁾, by a mortgagee in the name of the owner,

the applicant must, as soon as is practicable after the land is entered in the register, inform the responsible authority of that.

(6) 1998 c.18. The accounts to which section 2 applies are specified in Schedule 2 to the 1998 Act, which has been amended from time to time.

(7) 1983 c.44. The list of public bodies to which section 6 applies has been amended from time to time.

(8) Form QQ is a new form of wording of a restriction added to Schedule 4 to the Land Regulation Rules 2003 (S.I. 2003/1417) by paragraph 6 of Schedule 4 to these Regulations.

(9) 2003/1417. See footnotes to Schedule 4 for details of previous amendments to this instrument.

(2) A person who as a result of a disposal has become the owner of listed land must as soon as practicable after becoming the owner give the responsible authority—

- (a) information that the disposal has taken place; and
- (b) full details of—
 - (i) the name of the person who has become the owner including, where that person is a body corporate subject to registration, its place of registration and registered number; and
 - (ii) the address of that person.

(3) In this regulation—

- (a) “owner” includes a person who would be an owner as defined in section 107 of the Act—
 - (i) but for the effect of section 7(1) and (2) of the Land Registration Act 2002⁽¹⁰⁾; or
 - (ii) if the disposition to that person had been completed by registration in accordance with section 27(1)⁽¹¹⁾ of that Act; and
- (b) “disposal” means a transfer of a freehold estate or a grant or assignment of a leasehold estate in land, including—
 - (i) a relevant disposal, and
 - (ii) a binding agreement to make a disposal.

Amendments to Land Registration Rules

20. The Land Registration Rules 2003 are amended as set out in Schedule 4.

Consequences of non-compliant disposal

21.—(1) Subject to paragraph (2), a disposal of listed land is ineffective if it is a disposal that contravenes section 95(1) of the Act.

(2) Paragraph (1) does not apply if the person making the disposal, having made all reasonable efforts to find out if the land to be disposed of is listed, does not know that it is listed at the time the disposal is entered into.

Signed by the authority of the Secretary of State for the Department for Communities and Local Government

Name
Parliamentary Under Secretary of State
Department for Communities and Local
Government

Date

⁽¹⁰⁾ 2002 c.9. Section 7 was amended by the Land Registration Act (Amendment) Order 2008 (S.I. 2008/2872).

⁽¹¹⁾ Section 27 was amended by the Commons Registration Act 1965 (c.64) and by section 157(1) and (4) of the Localism Act 2011, brought into force on 1st April 2012 by article 6(a) of the Localism Act 2011 (Commencement No. 4 and Transitional, Transitory and Saving Provisions) Order 2012 (S.I. 2012/628).