

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Chapter 3 of Part 5 of the Localism Act 2011 (“the Act”) makes provision for England and Wales in relation to assets of community value, and includes powers for the Secretary of State to make further detailed provision in relation to England. These Regulations, which apply to England only, contain those details and come into force at the same time as commencement of Chapter 3, Part 5 of the Act, to give effect to the assets of community value scheme.

Regulation 1 defines terms used in the Regulations.

Regulation 2 specifies ways in which a local authority must modify an entry on its list of assets of community value.

Regulation 3 introduces Schedule 1, which specifies types of land which may not be listed as an asset of community value.

Regulation 4 defines “local connection” in relation to land, which is a requirement for voluntary or community bodies which wish to nominate land for listing, and for community interest groups in relation to the moratorium rules applying to listed land contained in section 95 of the Act.

Regulation 5 sets out the requirements for a group to qualify as a voluntary or community body, which under section 89(2)(b)(iii) of the Act is eligible to nominate land for listing.

Regulation 6 specifies information which must be included in a community nomination of land to be listed.

Regulation 7 requires a local authority to decide within 8 weeks whether nominated land should be listed.

Regulation 8 specifies people whom a local authority must inform when it is considering whether to list land, and regulation 9 specifies people to whom notice must be given when land is added to or removed from the list (in addition to those specified in section 91 of the Act).

Regulation 10 introduces Schedule 2, which contains the procedure to be followed by a local authority when it carries out a review of its decision to list land.

Regulation 11 gives an owner of land, including both the owner who requested the review and a subsequent owner of the land, the right to appeal to the First-Tier Tribunal against the local authority’s decision on its review of its decision to list the land.

Regulation 12 sets out the requirements for a group to qualify as a community interest group, which under section 95(3)(a) of the Act may make a written request to be treated as a potential bidder in relation to the land.

Regulation 13 specifies that a community interest group may enter into a contract to buy listed land during a moratorium period, and introduces Schedule 3 which sets out types of disposal to which the moratorium requirements in section 95(1) of the Act will not apply at all (in addition to those set out in section 95(5) of the Act).

Regulation 14 gives an owner of listed or formerly listed land the right to claim compensation for loss or expense, incurred while the owner of the land, which would be likely not to have been incurred if the land had not been listed. It also sets out procedural requirements for making a compensation claim, and requires local authorities to give owners written reasons for decisions with regard to compensation.

**Draft Legislation:** This is a draft item of legislation and has not yet been made as a UK Statutory Instrument. This draft has been replaced by a new draft, *The Assets of Community Value (England) Regulations 2012* ISBN 978-0-11-152629-3

The right to claim compensation does not apply to public and publicly funded owners of land specified in regulation 15.

Regulation 16 gives a person who has claimed compensation the right to require the local authority to review its decision with regard to that claim, and to give reasons for the review decision, and applies the procedural rules in Schedule 2 to compensation reviews.

Regulation 17 gives a person who has requested a compensation review the right to appeal to the First-Tier Tribunal against the local authority's review decision.

Regulations 18 to 20 contain provisions to safeguard against non-compliance by owners of listed land with the statutory requirements. Requirements regarding application for a restriction on the land register in respect of listed land, and for provision of an independent certificate of compliance to the Land Registrar in certain circumstances, are created by amendment to the Land Registration Rules 2003 ("the 2003 Rules").

With regard to entry on the land register of a restriction in respect of listed land, regulation 18 requires a local authority to apply in certain circumstances to cancel the restriction.

Regulation 19 creates two duties applying to owners of listed land; firstly that an owner applying for first registration of the land (or a mortgagee applying for first registration on behalf of the owner) must at the same time apply for entry of a restriction on the land register; and secondly that a person who has become an owner of the land following a disposal must inform the local authority of the disposal and provide ownership details.

Regulation 20 introduces Schedule 4, which makes amendments to rules 27, 93, 94, and 217 of, and Schedule 4 to, the 2003 Rules.

Paragraph 2 of Schedule 4 to these Regulations adds a new rule 27A to the 2003 Rules. This requires an owner of listed land applying for first registration of the land in the land register to apply at the same time for a restriction in Form QQ to be entered in the register. The same duty applies to a mortgagee applying for first registration in the owner's name. At the same time the applicant for first registration must provide with the application a certificate by a conveyancer that any conveyance of lease of the land while it was listed did not contravene section 95(1) of the Act.

Paragraph 3 of Schedule 4 amends rule 93 of the 2003 Rules (which specifies persons who have a sufficient interest to apply for a restriction) by adding a local authority which has listed land and is applying for a restriction to be entered in the register, and a mortgagee who has applied for first registration and for a restriction to be entered with respect to the charged land.

Paragraph 4 of Schedule 4 amends rule 94 of the 2003 Rules (which specifies when an application for a restriction must be made) by adding that where a local authority has listed land, an application for a restriction in Form QQ must be made either by the local authority (unless such a restriction already exists) or in accordance with new rule 27A (by the owner or mortgagee).

Paragraph 6 of Schedule 4 adds the wording for new Form QQ to Schedule 4 of the 2003 Rules (standard forms of restriction), and paragraph 5 makes a consequential amendment to rule 217.

Regulation 21 provides that a non-compliant disposal will be ineffective, except where the owner making the disposal, having made all reasonable efforts to find out if the land was listed, was unaware that this was the case at the time of the disposal.