

EXPLANATORY MEMORANDUM TO
THE ASSETS OF COMMUNITY VALUE (ENGLAND) REGULATIONS 2012

2012 No. XXXX

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government (“DCLG”) and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instruments**

2.1 These Regulations (“the Regulations”) specify details necessary to bring into force the Assets of Community Value provisions (“the Assets Scheme”) in Part 5 Chapter 3 of the Localism Act 2011 (“the Act”). The Assets Scheme requires a local authority to maintain a list of buildings and other land in its area which are of community value, and ensures that when such land is to be sold local community groups will have the opportunity to delay the sale to enable them to prepare a bid to buy it.

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

3.1 This instrument uses the powers in Part 5 Chapter 3 of the Act for the first time. It uses powers subject to both negative and affirmative Parliamentary procedures, and relies on section 235(8) (together with section 235(6)) of the Act which provides that a separate negative procedure in respect of the Regulations is not necessary if they are scrutinised under the affirmative procedure.

3.2 Chapter 3 of Part 5 of the Act extends to England and Wales, and the powers in it to make regulations and orders are exercisable by the Secretary of State in relation to England and by the Welsh Ministers in relation to Wales. These instruments exercising the powers in relation to England are being laid first; it is expected that similar, but not necessarily identical, provision will later be made by the Welsh Ministers in relation to Wales.

4. **Legislative Context**

4.1 This section of the memorandum summarises the provisions of the Assets Scheme in the Act, and provides legal background to the additional details in the Regulations and the issues involved. There is no close legislative precedent for the Assets Scheme. Scotland has a statutory Community Right to Buy scheme¹ for rural land which is important to the local community, but

¹ Part 2 of the Land Reform (Scotland) Act 2003.

its details are different in many respects (controlled directly by Scottish Ministers who may approve a specific local group to have a right of first refusal for a specific piece of land). However there are also some similarities, and where appropriate the Assets Scheme draws on the Scottish Community Right to Buy provisions.

4.2 The Assets Scheme provisions in the Act require a local authority to maintain and publish a list of assets of community value. With the exception of National Parks and the Broads Authority, the authorities satisfying the definition of “local authority” for this purpose (set out in section 106 of the Act) are the same bodies as local planning authorities.

4.3 The definition of land of community value is in section 88 of the Act. A principal (i.e. not ancillary) current use of the land must further the social wellbeing or social interests of the local community, and it must be realistic to think that the same or another such use will continue. Such use in the recent past can also make the land eligible for listing provided that it is realistic to think the same or another such use will exist within the next five years. Regulations may provide for particular types of land not to be of community value.

4.4 Land must be listed if it is proposed by a community nomination, is in the local authority’s area, and satisfies the definition of land of community value (and is not excluded from being listed). Those eligible to make a community nomination are the local parish council (in England) and a “voluntary or community body” (defined in regulation 5) “with a local connection” (defined in regulation 4). Land must be removed from the list after 5 years (if not already removed).

4.5 The land to which the Assets Scheme applies may be of any size, may be publicly or privately owned, may lie in more than one local authority area, and may or may not consist of registered land (i.e. land entered on the register maintained by the Land Registry). Nomination of a site does not have to pay regard to any of these factors, and it is therefore possible for a nominated site to be divided between different owners or different local authority areas, and to consist partly or wholly of unregistered land.

4.6 The ownership of a piece of land can be complex, involving several tiers of ownership rights. In a simple situation there is only a freehold owner, who occupies the site. Alternatively the freeholder may have granted a lease of part or the whole of the site, with accompanying rights of occupation; the leaseholder may have granted one or more sub-leases, and so on. The owner of the land, for the purposes of the Assets Scheme, is defined in section 107 of the Act to mean the freeholder where there is no qualifying leaseholder, or the leaseholder most distant (in terms of intervening legal estates) from the freeholder, holding a lease granted for at least 25 years. This means that there will only ever be one qualifying tier of ownership for the Assets Scheme.

4.7 The fact that listed land may or may not be entered on the land register has been an important factor in decisions on how to describe a parcel of land

in the Regulations, for instance for excluding land associated with a residential building from being listed. For registered land, reference to title and the boundaries recorded on the register should make it straightforward to decide which land belongs with a residence; but for unregistered land it could be necessary for the owner to go through the potentially expensive and challenging process of proving title, and for the local authority to assess this; to establish whether, for instance, an adjacent field belongs with a house and its garden or not. In the interests of treating both registered and unregistered land in the same way, therefore, a different approach has been used in the Regulations based on the concept of land owned by one person which is not interrupted by land owned by another person.

4.8 Types of land which may not be listed are set out in Schedule 1 to the Regulations. The statutory background to two of these exclusions is given briefly below.

- Caravan sites (paragraph 3 of Schedule 1): the statutory references here, to the Caravan Sites and Control of Development Act 1960 (“CSCDA”), are intended to exclude permanent residential caravan sites (including local authority traveller sites) from being listed, in parallel with the exclusion of residential buildings. Part 1 of the CSCDA creates a scheme for the licensing of residential sites by local authorities. Schedule 1 of that Act lists types of site which are exempt from the licensing requirements, and those in paragraphs 1, 4, 5 and 10 to 11A have been added to the exclusion from listing. These are respectively –
 - a site within the curtilage of a dwellinghouse;
 - a site occupied and supervised by an exempted organisation (i.e. an organisation having objects which include the encouragement or promotion of recreational activities);
 - a site approved by an exempted organisation (exempt from licensing where there are no more than five caravans on the site);
 - a site used by a travelling showman who is a member of an organisation of showmen certified by the Minister;
 - a site occupied by the local authority in whose area it is situated; and
 - a site occupied by a county council providing accommodation for gipsies.
- Paragraph 4 of Schedule 1 to these Regulations excludes from listing major transport networks and some other similar land by reference to the definition of statutory undertakers and their operational land in the Town and Country Planning Act 1990 (“TCPA”). Section 262 of the TCPA sets out bodies which are designated “statutory undertakers”, primarily “persons authorised by any enactment, to carry on any railway, light railway, tramway, road transport, water transport, canal inland navigation, dock, harbour pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power and a relevant airport operator”. Several other bodies or types of body are added to this list, including universal postal service providers, the Civil Aviation Authority, and a person holding a licence under Chapter 1 Part 1 of the Transport Act 2000 (air traffic

services). Section 263 of the TCPA then defines “operational land” as being land owned by a statutory undertaker which it uses for its undertaking, or which it has an intention of so using.

4.9 The Act includes a power to specify in regulations steps the local authority must take in reaching a decision whether to list a site, once it has been nominated (used in regulations 7 and 8). Once the site has been listed, the Act provides that the local authority must give written notice of this to the owner, and gives the owner a right to request a review by the authority of its decision to list the land. The Regulations include use of the power in section 92(5) to set out the procedure for the local authority review (see paragraphs 7.20 to 7.29 below).

4.10 Section 92(6)(d) of the Act also enables the Secretary of State to include a right for the owner to appeal against the local authority’s review decision. The Regulations provide for such appeals, to the First-Tier Tribunal, which will consider facts as well as law. The First-Tier Tribunal is currently undergoing a process of completing the unification of tribunal jurisdictions. Eventually there will be a Lands Chamber (or similar title) at the First-Tier level, but at present it is envisaged that Assets Scheme appeals will go to the General Regulatory Chamber, which has its own set of procedural rules. The Tribunal Service will have power, if considered appropriate, eventually to transfer jurisdictions between Chambers, so it is possible that Assets appeals may move to the new Lands Chamber of the First-Tier Tribunal once this is added. Appeals from the First-Tier Tribunal (on points of law only) go the appropriate chamber of the Upper Tribunal, which already includes a Lands Chamber.

4.11 There is no provision in the Act for suspension of listing during a review or appeal. The moratorium requirements in section 95 apply to the owner of listed land as soon as it is listed and continue until the land is removed from the list, apart from a protected period following a moratorium.

4.12 Section 95 of the Act sets out the mechanism by which the local community will be able to delay a sale. An owner of listed land who intends to make a relevant disposal of it (other than an exempt disposal) must notify the local authority, which in turn publicises this fact locally (section 97). Relevant disposal is defined in section 96, as being the transfer of the freehold, or the grant or assignment of a qualifying lease, in either case giving vacant possession. The combination of this definition with the definition of “owner” in section 107 means that it will be possible for a change of ownership of listed land not to involve a relevant disposal – for instance if the owner sells subject to an existing lease, therefore not giving vacant possession; or if the current leaseholder assigns that lease giving vacant possession, but the lease was originally granted for less than 25 years in which case the leaseholder is not the owner for the purposes of the scheme.

4.13 As soon as the owner notifies the local authority of an intention to make a relevant disposal, a moratorium on sale of six weeks (the interim moratorium) comes into effect. During the interim moratorium, a community

interest group may trigger the full moratorium of six months by making a request to the local authority in writing to be treated as a potential bidder in relation to the land. If this happens, the local authority must inform the owner (under section 98 of the Act) and, under regulation 2, the group which nominated the land for listing, and add the new information to the entry on the list.

4.14 The conditions necessary to qualify as a community interest group are set out in regulations 5 and 12 (see also below, paragraphs 7.32 and 7.33), and refer also to the definition of local connection in regulation 4. A community interest group must be either a charity or one of a list of incorporated bodies (that is, bodies which have a legal identity of their own separate from their members). There is no requirement that a community interest group which triggers the full moratorium should be able to prove an existing capacity to make a realistic bid to buy the land in question.

4.15 Set out below are brief legal summaries of the main characteristics of the types of body required for a community interest group.

- A charity, whether registered with the Charity Commission or not, must meet the requirements now contained in the Charities Act 2006, including being run only for charitable purposes and being for the public benefit. One new form of charity is the Charitable Incorporated Organisation, created by the Charities Act 2006. All charities are regulated, and the majority must be registered with and regulated by the Charity Commission. Some are exempted from registration with, or exempt from regulation by, the Commission. Charities are run by trustees, but otherwise may take a number of forms, e.g. unincorporated association, company limited by guarantee, or the community benefit form of industrial and provident society. A charity may trade in furtherance of its objectives, but must not distribute profits as dividends.
- A company limited by guarantee is registered with and regulated by Companies House, and subject to statutory rules currently set out in the Companies Act 2006. Although it has members it does not have share capital, and although it can make profits these cannot be distributed to members. Members – or guarantors – have liability limited to the amount they guarantee to pay if the company has debts on winding up (usually a nominal amount, e.g. £1).
- An industrial and provident society (“IPS”) is an incorporated body registered with the Financial Services Authority, and subject to statutory rules currently set out in a series of Industrial and Provident Society Acts. There are two different types of IPS – co-operative societies which are run for the mutual benefit of members, and community benefit societies. Under the co-operative form, profits may be distributed among members. Under the community benefit form, profits must be ploughed back into the business and not distributed to members (though interest may be paid on

shares). Under legislation not yet commenced², the two forms of industrial and provident societies will eventually be renamed co-operative societies or community benefit societies.

- A community interest company (CIC) is a relatively new type of body created by Part 2 of the Companies (Audit, Investigations and Community Enterprise) Act 2004, with details in the Community Interest Company Regulations 2005. CICs have their own regulator and cannot be a registered charity. They can be limited by shares or guarantee, and profits and assets cannot be distributed except in very limited ways as permitted by legislation.

4.16 In addition to the interim and full moratorium periods, the Act provides for a protected period after the moratorium during which the same owner wishing to sell the land will not be subject to any further delay. All three periods run from the same start date – the date on which the owner notifies the local authority of an intention to sell – so that after the interim moratorium the full moratorium will add a further four and a half months delay, and the eighteen month protected period will run for a further sixteen and a half or twelve months after the end of the interim or full moratorium respectively.

4.17 During either moratorium period, the owner may not make a relevant disposal, except as permitted. Section 96(4) provides that a binding agreement to make a relevant disposal counts as that disposal, which is therefore made at the time the agreement is entered into. This means that, for instance, a grant of an option or a right of first refusal (granted after the land has been listed) is a relevant disposal.

4.18 The Regulations use the power in section 95(5)(j) – to disapply the moratorium requirements in section 95(1) – in two different ways. Firstly, they provide that a relevant disposal may be made during the moratorium period if it is to a community interest group (regulation 13(1)). In this situation the owner has notified the local authority, but can sell to this particular type of buyer without waiting for the end of the moratorium.

4.19 Secondly, there will also be a variety of types of relevant disposal which will be completely exempt, with the owner who knows that such a disposal will take place not being required to notify the local authority and start the moratorium procedure in the first place. Several categories of exempt relevant disposal are set out in section 95(5), and others are specified in Schedule 3 to the Regulations. The legislative background to certain of the exempt disposals in Schedule 3 is given below –

- Paragraph 4(1)(a) – disposals under section 106 agreements. Under section 106 of the Town and Country Planning Act 1990, in return for being granted planning permission by the local planning authority, a developer enters into planning obligations and undertakes to include as part of the development specified work which will benefit the local

² Section 1 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010.

community. Such obligations vary considerably, and may in certain cases involve as part of the agreement the developer transferring land to a specified new owner.

- Paragraph 5 of Schedule 3 refers to situations covered by the “Crichel Down Rules”. These are not statutory, but are set out in guidance issued by the Department for Communities and Local Government, circular 06/2004, see –
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/158478.pdf>
Very briefly, the rules set out circumstances in which land owned by a public body (frequently a Government department) which was originally bought under compulsion from the owner must, if it is no longer needed for public use, be offered back for purchasing by the original owner or their descendants.
- Paragraph 6 – power of sale held by a lender. The terms of the agreement by which a loan is secured on land usually includes an explicit term giving the lender a power to sell the land if the borrower defaults, but in addition a charge on land by deed is deemed to include a power of sale by section 101(1) of the Law of Property Act 1925.
- Paragraph 7 – disposal resulting from insolvency. The Insolvency Act 1986 covers a wide range of types of insolvency procedure, and the Insolvency Rules 1986 (made under sections 411 and 412 of that Act) deal with both company and individual insolvencies. Rule 13.7 of the 1986 Rules defines “insolvency proceedings” as any proceedings under the Act or the Rules.
- Paragraph 8 – compulsory purchase. The definition in regulation 1 of “statutory compulsory purchase” includes both disposals compelled by statutory powers and disposals made by agreement under the threat of use of such a power.
- Paragraph 9 – agricultural holdings. Part 4 of the Agricultural Holdings Act 1986 provides entitlement to succession in certain circumstances by a close relative of a retiring or deceased tenant of an agricultural holding. Succession is not automatic – the would-be successor must apply to an agricultural land tribunal.
- Paragraph 10 – transfers between related companies. This exemption uses the concept of group undertaking in the Companies Act 2006 (“CA”), but with a modification. The CA defines “undertaking” extremely widely for the purpose of bodies which are group undertakings. The definition includes partnerships, and also unincorporated associations carrying on a trade or business, with or without a view to profit. This is considered too wide for the purpose of exempting transfers of land between connected companies in these Regulations. The CA definition of “undertaking” has therefore been replaced, and for the purposes of this exemption it means a body corporate. A body corporate is a body which has its own legal

existence separate from the people who form it. All companies are bodies corporate, and a variety of other types of organisation are or may be so, including statutory corporations (e.g. local authorities). Having substituted this narrower meaning of “undertaking”, the CA definition of group undertaking is used for exemption of disposals between companies which are closely related to each other. The CA sets out the definition in terms of parent companies and subsidiary companies.

- Paragraph 12 – disposal of a closed Church of England church. A Measure is legislation of the General Synod of the Church of England which, if approved by each House of Parliament, receives Royal Assent and becomes part of the law of England. Part 6 of the Mission and Pastoral Measure 2011 (“the 2011 Measure”) is entitled “Buildings Closed For Regular Public Worship” and sets out a lengthy process for closing a church and deciding what to do with the building and land thereafter. These provisions, coming into force on 1st July 2012, consolidate and replace the previous similar provisions in Part 3 of the Pastoral Measure 1983, which the 2011 Measure repeals. The procedure under the 2011 Measure would usually take considerably longer than six months, including local and national consultation, and possibly also a public hearing and appeal to the Privy Council. The building and land may technically change ownership within the Church of England more than once during this process, entailing initially transfer to the Diocesan Board of Finance then again to the Church Commissioners. The latter will authorise any agreed new use and draw up a draft pastoral scheme (with further consultation), and eventually sell or lease the building and land for the agreed purpose. If no future use can be agreed through this process, the building will either be demolished or (if architecturally or historically significant) transferred to the Churches Conservation Trust which will maintain and preserve it.
- Paragraph 13 – a disposal for the purpose of continuing Health Service provision. Section 1(1) of the National Health Service Act 2006 currently provides that –

The Secretary of State must continue the promotion in England of a comprehensive health service designed to secure improvement—

- (a) in the physical and mental health of the people of England, and
- (b) in the prevention, diagnosis and treatment of illness.

This wording will change when section 1 of the Health and Social Care Act 2012 comes into force, but the only change to the above wording will be that (b) then reads “in the prevention, diagnosis and treatment of physical and mental illness”.

- Paragraph 14 – disposals for educational use. Section 4 of the Education Act 1996 defines a school as an educational institution (not in the further or higher education sectors) which provides primary and/or secondary education. Institutions which are not maintained nursery schools or provide only “early years” provision (as defined by section 96(2) of the

Childcare Act 2006) are not schools, and (in amendment inserted by the Education Act 2011) nor are 16 to 19 Academies or “alternative provision” academies. However a 16 to 19 Academy will count as a school for the purpose of the exemption, and has the meaning inserted into the Academies Act 2010 by the Education Act 2011. Further education institutions will also count as schools for the exemption, and are defined in section 91(3) of the Further and Higher Education Act 1992 as sixth form colleges, institutions conducted by further education corporations (also defined in section 91), and institutions designated under Part 1 of the same Act (dealing with further education). Independent schools are excluded from the exemption unless section 1 of the Academies Act 2010 applies (which deals with Academy arrangements made by the Secretary of State). Independent schools, as defined by section 463 of the Education Act 1996, are schools or special schools which provide full-time education for five or more pupils of compulsory school age, and which are not maintained by the local authority.

4.20 If an owner of listed land fails to make the proposed sale, the land will continue to be listed until either it reaches the end of the listing period which the local authority has set (which cannot be more than 5 years – see section 87 of the Act) or the local authority decides that it should no longer be listed. If a sale is made, the Act provides powers which are used in the Regulations dealing with information to the local authority and the consequences for listing.

4.21 The Regulations include provision for compensation under the power in section 99 of the Act. An owner who suffers loss or expense as a result of the land being listed may be paid compensation by the local authority (see regulation 14 and paragraphs 7.36 to 7.43 below). This is one of the areas in which the Assets Scheme to some extent follows the Scottish Community Right to Buy Scheme. Although the two schemes are very different in many respects, they share the characteristic that the owner of the land can be delayed for six months (or possibly more in the Scottish scheme) in making a sale, which is the key factor potentially giving rise to loss or expense.

4.22 Section 99 of the Act includes a power enabling the Secretary of State to give an owner the right both to require the local authority to review its decision on compensation, and to appeal against the decisions made under the regulations. Both powers have been used (regulations 16 and 17). The procedure for compensation reviews is the same as that for listing reviews, set out in Schedule 2 to the Regulations.

4.23 The Act also enables the Secretary of State to include provision in regulations ensuring that the requirements of the Assets Scheme are complied with (section 101 of the Act). The provision in the regulation 21, that non-compliant disposals will be ineffective, is a second example of the Assets Scheme following the Scottish Community Right to Buy Scheme, which imposes the same penalty. See paragraphs 7.46 and 7.47 regarding enforcement details. Relevant legal background to these details, in the

following paragraphs, concerns local land charges, entries on the land register, and restrictions against title on the land register.

4.24 Section 100 of the Act makes the inclusion of the land on the local authority's list a local land charge. Since local land charges apply to both registered and unregistered land, this will enable a complete check on whether land is listed. Local land charges registers are maintained by local authorities, and section 100(b) provides that the relevant Assets Scheme local authority will be the same local authority which will administer the relevant local land charges register. Section 1 of the Local Land Charges Act 1965 sets out the charges and other matters which are local land charges, and subsection (1)(e) adds "any charge or other matter which is expressly made a local land charge by any statutory provision not contained in this section".

4.25 The Land Registry maintains the land register, which records details of the land itself, its ownership, and third party rights such as charges secured on the land. Although compulsory registration of land has been gradually introduced since 1925 and now applies in many cases where unregistered land changes ownership, it is estimated by the Land Registry that approximately 25% of land in England and Wales is still unregistered. Statutory provisions relating to land registration are now in the Land Registration Act 2002 ("the 2002 Act") and the rules made under it, the Land Registration Rules 2003 ("the 2003 Rules").

4.26 As an additional safeguard against unintentional breaches of the Assets Scheme requirements, the land registration legislation is being amended to ensure that (except in cases of deliberate avoidance) there will always be a restriction on the land register. This will ensure that the Land Registry must be satisfied that a disposal has been fully compliant before a change of ownership of listed land will be registered.

4.27 A restriction entered in the land register controls dealings with the land. Section 40(1) & (2) of the 2002 Act provides that –

- (1) A restriction is an entry in the register regulating the circumstances in which a disposition of a registered estate or charge may be the subject of an entry in the register.
- (2) A restriction may, in particular—
 - (a) prohibit the making of an entry in respect of any disposition, or a disposition of a kind specified in the restriction;
 - (b) prohibit the making of an entry—
 - (i) indefinitely,
 - (ii) for a period specified in the restriction, or
 - (iii) until the occurrence of an event so specified.

4.28 The details of the power for the registrar to enter a restriction in the register are in section 42 of the 2002 Act and the purposes for which this may be done include "preventing invalidity or unlawfulness in relation to dispositions of a registered estate ..." (42(1)(a)). Section 43 of the 2002 Act

sets out the requirements for a person to be able to apply to the registrar to enter a restriction, and in addition to applications by proprietors includes an application by a person who “otherwise has a sufficient interest in the making of an entry” (43(1)(c)). Section 43(2) of the Act gives a power for rules to specify particular circumstances in which an application under subsection (1) must be made, and to specify standard forms of restriction.

4.29 The amendments to the 2003 Rules are contained in Schedule 4 to these Regulations. Part 4 of the 2003 Rules deals with first registration of land, and the Regulations will add to it a new rule 27A requiring an owner of listed land who applies for first registration to apply at the same time for a restriction against their own title.

4.30 Rule 93 of the 2003 Rules sets out persons regarded as having a sufficient interest to apply for a restriction (i.e. referring to the wording in section 43(1)(c) of the 2002 Act). The Regulations will add to rule 93 a local authority applying for a restriction in respect of the owner of listed land.

4.31 Rule 94 of the 2003 Rules set out circumstances in which an application for a restriction must be made. The Regulations will add to rule 94 the requirement that a restriction must be applied for in respect of listed land either by the owner applying for first registration, or in other cases by the local authority.

4.32 Schedule 4 to the 2003 Rules gives the forms of restriction which may or must be used. The Regulations will add as new form QQ “No transfer or lease is to be registered without a certificate signed by a conveyancer that the transfer or lease did not contravene section 95(1) of the Localism Act 2011”, and in this context “conveyancer” has the meaning given in rule 217A of the 2003 Rules (including licensed conveyancers).

5. Territorial Extent and Application

5.1 This instrument applies to England.

5.2 Chapter 3 of Part 5 of the Act applies to England and Wales. Welsh Ministers may exercise the delegated powers to make parallel regulations in respect of land in Wales.

6. European Convention on Human Rights

6.1 With regard to the provisions in the Regulations which are subject to negative resolution procedure, no statement is required.

6.2 With regard to the provisions in the Regulations which are subject to affirmative resolution procedure, Andrew Stunell, the Parliamentary Under Secretary of State, has made the following statement regarding Human Rights:

“In my view the provisions of the Asset of Community Value (England) Regulations 2012 are compatible with the Convention rights.”

7. Policy background

7.1 The Government’s policy in introducing these provisions is to assist local community groups to preserve buildings or land which are of importance to their community’s social well-being. The background to this is a trend in recent years of communities losing local amenities and buildings of importance to them. Evidence seen by DCLG indicates that being unaware of a proposed sale, and the speed with which local assets are frequently sold, are both important factors in the local community being unable to make an alternative proposal for use of the site. The focus of the Assets Scheme is therefore to give the local community early warning of sales and to enable eligible local groups to delay sales by 6 months to provide time for them to put together a competitive bid to buy the asset. The scheme does not require the owner to sell to a community group, but improves the opportunity for this outcome.

7.2 The Regulations set out details of requirements for both local authorities and owners of listed land, including exemptions and rights to appeal and compensation, and safeguards against non-compliance and the penalty where non-compliance exists.

7.3 Regulation 2 (using the power in section 87(5) of the Act) ensure that the fullest possible information is available to the local community, particularly at the crucial time when the owner has just notified the local authority of an intention to sell. When that occurs, the local authority is required to amend the entry on a listed asset in the following ways –

- by showing when a full moratorium is in force;
- by giving the name of the community interest group which triggered the full moratorium.

It also requires the local authority to add further information to the entry on the list by amending it, and if necessary removing the land from the list, if –

- there has been a relevant disposal of some or all of the land after full compliance with section 95(1);
- an appeal against listing has been successful; or
- the authority has decided that some or all of the land is no longer of community value.

7.4 The effect of the provision on when to remove land from the list after a relevant disposal is that where the local community has had the full opportunity to use the moratorium rules in relation to that disposal, the land will be removed from the list once the local authority is requested to do so (probably usually by the new owner). However where for one of two reasons section 95(1) has not been fully complied with, the land will remain listed (so long as it still satisfies the definition of community value). The two reasons are firstly that the disposal fell within one of the exemptions listed in section

95(5) of the Act or in Schedule 3 of the Regulations; or secondly that a community interest group bought the asset during the moratorium, in accordance with regulation 13(1).

Exclusions from listing

7.5 Regulation 3, using the power in section 88(3), introduces Schedule 1, which sets out types of land which may not be listed. The Government's policy is to ensure that the Assets Scheme does not impinge on residential buildings or transport routes, types of land which are outside the scope of this policy. Three exclusions are therefore set out in Schedule 1 to the Regulations (see paragraph 4.8 for legal information regarding these exclusions) –

- a residence and land connected with it;
- residential caravan sites; and
- operational land of statutory undertakers.

7.6 The Government recognises that some assets of importance to communities, such as pubs or community centres, may have integral accommodation tied to the site's main function. The policy objective is that such assets should be capable of being listed so long as the main purpose of the building or land meets the definition of community value; hence the exclusion from listing for residences does not apply in such cases.

7.7 The approach taken to defining land which is connected with a residence fulfils commitments which the Government gave during passage of the Localism Bill, particularly in the House of Lords. The definition also ensures that where a piece of land is held in single ownership together with a residence, the fact that the land is interrupted by a road, railway, or waterway (owned by the relevant statutory undertaker) will have no effect. The whole of that land with the residence will still be excluded from listing. See paragraph 4.7 above for further comments on this.

Definition of local connection

7.8 Regulation 4 defines local connection for voluntary or community bodies (which may nominate assets for listing) including community interest groups (which may also trigger the full moratorium). A broad approach has been used, since the policy objective is simply to ensure that groups will count as having a local connection if at least some of their activity is in the area of the local authority concerned or that of a neighbouring local authority. The inclusion of neighbouring areas is in recognition that community use of an asset will often extend beyond the boundaries of the local authority which it lies in. On the same principle, neighbouring parish councils have been included in provisions where appropriate.

7.9 Local connection will be established by where the group focuses its activities, where its members live (in the case of an unincorporated group), and – if it makes profits – where the profits are applied. For a parish council, connection with land not within its own area will depend on the council

sharing a boundary with the council or local authority which the land does lie within.

Definition of voluntary or community bodies

7.10 Regulation 5 uses the power in section 89(4) of the Act to define a “voluntary or community body”, which, if it has a local connection, may make a community nomination of land for listing. The policy aim here was to give relatively wide access to nomination by local groups, given that the local authority exercises control over the process by deciding whether the definition of community value is met. In addition, there is no immediate consequence of nomination so far as the land and the landowner are concerned – the moratorium rules only apply once the land has been listed by the local authority.

7.11 Regulation 5 will allow nomination by community interest groups (defined in regulation 12 mainly by reference to the details in this regulation) and by neighbouring parish councils. The right for parish councils in which the asset is sited to nominate is provided in section 89(2)(b)(i) of the Act.

7.12 Neighbourhood forums (satisfying the requirements of section 61F of the Town & Country Planning Act 1990 – added by the Localism Act) may also make nominations in relation to assets within their own or neighbouring local authority areas.

7.13 In addition, in recognition that not all groups wishing to preserve an asset of community value will already have a formal legal structure, an unincorporated local organisation may nominate provided that it has at least 21 individual members who are on a local electoral register. The minimum membership requirement is the same as used for neighbourhood forums and has been set at that level to minimise the risk of vexatious and frivolous nominations if individuals or very small unincorporated groups were eligible to nominate assets.

7.14 The power in section 89(1) of the Act to enable non-community nominations has not been used. The regulations do not provide for local authorities other than parish councils to list land within their own area on their own initiative. This is to encourage communities to take responsibility for identifying and nominating assets of importance to them.

Content of nominations

7.15 Regulation 6 stipulates the minimum contents for a community nomination (which is the only type of nomination allowed under these Regulations). This is intended to strike a balance between not placing too heavy a burden on the nominator, and trying to ensure that the local authority has as much information as possible to help decide whether to list the land, without having to make too many enquiries itself. It is also intended to prevent nomination by a group which does not meet the requirements. The nominator must include –

- a description of the land and its proposed boundaries;
- all information the nominator has on the freeholder, any leaseholders, and current occupants;
- the reasons for nominating the land; and
- evidence of eligibility to make the nomination.

Procedure for the local authority when deciding whether to list

7.16 Regulation 7 is intended to ensure the nomination is considered in a timely manner; the regulations set out that a local authority has 8 weeks in which to decide if nominated land is to be included on the list. This responds to concerns raised during consultation with representatives of community and voluntary groups that a local authority may take an unreasonable amount of time to consider a nomination. The 8 week period was set following discussions with local authority representatives.

7.17 Regulation 8 requires the local authority to take all reasonable and practical steps to notify the following parties that listing is being considered:

- a parish council in which the land lies;
- the owner (as defined in the Act);
- where the owner is not the freeholder, the holder of the freehold;
- any leaseholder; and
- any lawful occupant.

7.18 The Government's purpose here is to promote the greatest possible transparency by ensuring that all parties with a legitimate interest in the asset are aware that the land has been nominated, and have the opportunity to make representations to the local authority before it makes a decision. The parish council in which the land lies is included as a result of the consultation response from the National Association of Local Councils, which requested that parish councils be kept informed about all developments regarding nominated and listed land in their areas.

7.19 Regulation 9 adds to the requirements on the local authority in section 91 of the Act to ensure that people with a legitimate interest in a site are informed if it has been added to or removed from the list. The Act already requires the local authority to give this information to the owner, the occupier of the land if not the owner, and the successful community nominator of the asset. Regulation 9 adds the freeholder and any leaseholders if they are not the owner as defined in the Act, together with a parish council that the land lies in.

Procedure to be followed for listing review

7.20 Section 92 of the Act gives an owner of listed land the right to require the local authority to review its decision to list. Regulation 10 introduces Schedule 2 to the Regulations, which uses the power in section 92(5) of the Act to specify procedure for this review.

Listing reviews

7.21 Paragraph 1 of Schedule 2 requires a written request for a review to be made within 8 weeks from the date on which a written notice is issued by the local authority that the land has been listed. However, the local authority has discretion to allow a longer period in writing. As DCLG has heard evidence that some owners are difficult to contact, local authorities are allowed to take reasonable alternative routes to inform the owner. The owner has 8 weeks to make an appeal after the local authority has completed those steps. Stipulating a time limit ensures certainty with regard to the listing, and consistency across the scheme.

7.22 Paragraph 2 of Schedule 2 provides that a written request for a compensation review must be made within 8 weeks of the owner receiving the notification of compensation award.

7.23 Paragraph 3 provides that the procedure rules in the remainder of the Schedule apply for both listing and compensation reviews.

7.24 Paragraph 4 requires the local authority officer hearing a review to be of an appropriate grade and not have been involved in making the original decision. This ensures natural justice rules are observed, and also parallels statutory requirements for internal reviews of other local authority decisions (for instance regarding homelessness).

7.25 Paragraph 5 entitles the owner who is seeking the review to appoint a representative, who may or may not be legally qualified. Any document which should be provided to the owner must be sent to this representative and need not also be sent to the owner.

7.26 Paragraph 6 requires the local authority to notify the owner of the review procedure as soon as practicable.

7.27 Paragraph 7 gives the owner the right to an oral hearing. In a case where no such request is made, the local authority has discretion whether to hold an oral hearing. 77% of those who responded to this point in the consultation agreed that the owner should be entitled to an oral hearing to ensure full openness and transparency of the decision making process.

7.28 Paragraph 8 allows both the owner and their representative to make representations to the reviewer in writing, orally, or both.

7.29 Paragraph 9 stipulates a time period of 8 weeks in which the local authority must complete the review on receiving a written request. The local authority can agree a longer time period in writing with the owner.

7.30 Regulation 11 gives the owner a right of appeal to the First-Tier Tribunal against the local authority's decision on review. The right of independent appeal ensures fairness to land owners and compliance with Article 6 of the Human Rights Act. Commitments were made in Parliament that such appeal rights would be provided. 76% who responded on the

relevant question in the consultation considered an appeal provision should be granted to the owner on the local authority's decision on review.

7.31 The fact that the appeal will be made to the First-Tier Tribunal will ensure that appeals are independent and accessible to all affected owners, as the First-Tier Tribunal offers a prompt, accessible and cost effective process. The Tribunal procedural rules allow the parties to the appeal the right to request an oral hearing. The time for lodging an appeal, as specified in the Tribunal procedure rules, is 28 days from the date on which notice of the review decision was sent to the owner. Although the Procedural Rules of the General Regulatory Chamber of the First-Tier Tribunal (see paragraph 4.10 above) do not allow for payment of one party's costs by the other (except to a limited extent as a penalty for unreasonable behaviour in the proceedings), the compensation provisions in these Regulations do allow an owner who wins an appeal to make a compensation claim in respect of the Tribunal appeal costs (see regulation 14(3)(b)).

Definition of "community interest group"

7.32 Regulation 12 defines a community interest group, by reference to certain of the bodies listed in regulation 5 (voluntary or community bodies). A community interest group will be able to delay a sale of listed land for 6 months (subject to exemptions), in accordance with section 95(3) of the Act. Apart from local parish councils, they must have one or more of the formal structures described in paragraph 4.15, and must also satisfy the local connection requirements as these apply to the different types of body. It is a further requirement that a community interest group should not distribute profits to its members – either stated as a requirement in regulation 5 or, in the case of a charity or a community interest company, a requirement of that form of body.

7.33 More stringent requirements have been stipulated for community interest groups than for other types of voluntary or community body which may nominate land for listing. This is to ensure that organisations triggering the moratorium may own property in their own right; to protect landowners against irresponsible or vexatious requests for the full 6 month moratorium to apply; and to give as much transparency as possible to the process – since such groups will be subject to regulation and publication of their basic details.

Moratorium and exempt disposals

7.34 As described in paragraphs 4.18 and 4.19, the Act allows for disposals which are exempt from complying with section 95(1). Regulation 13(1) allows a local community interest group to enter into a contract to buy the land during the moratorium period. The reason for this exception is in order to facilitate sales to community groups by giving them an advantage over other potential purchasers of enabling the landowner to sell to them more quickly.

7.35 Regulation 13(2) introduces Schedule 3, which provides a further set of exempt disposals in addition to those in section 95(5). Consultation

responses, discussions with interest groups, and debate in Parliament established that there are a number of types of disposals that should not be subject to any delay as a result of the interim or full moratorium periods. The reasons for each exemption provided in Schedule 3 are given here (see also the legal background details given at paragraph 4.19 above).

- Paragraph 1: A disposal under a court or tribunal order should take precedence and not be held up by a moratorium applying.
- Paragraph 2: Many disposals of land due to separation of spouses or civil partners will be incorporated in a court order, but this exemption recognises that it is appropriate to extend the exemption also to separation agreements which are not embodied in court orders. In these circumstances, it is similarly considered inappropriate to subject such disposals to the moratorium requirements.
- Paragraph 3: As with the previous exemption, some disposals relating to the needs of a person with an incapacity will be made pursuant to a court or tribunal order, but it is considered appropriate to extend the exemption to disposals in circumstances where a statutory power is exercised in relation to incapacity without need for such an order. The exemption covers disposals both by and to a person acting on behalf of somebody with an incapacity; in neither case would it be right to subject the disposal to delay through the moratorium requirements. “Incapacity” is intended to be interpreted very broadly, as indicated in the gloss on the meaning.
- Paragraph 4: If, before the land is listed, a property is already subject to a binding agreement requiring sale to a particular person, or giving an option for purchase to a specific person, there would be no point in triggering a moratorium as no other party could legally take priority to purchase the asset. On the other hand, if a binding option or agreement for sale is entered into after the land has been listed this will in itself count as a relevant disposal under section 96(4) of the Act, and would therefore require observance of the section 95 rules (unless exempt for any other reason).
- Paragraph 5: This exemption is similar to the previous one, in that the Crichel Down rules in effect create a non-statutory right of first refusal for the original owner or their descendants, for land which was compulsorily purchased but is no longer needed. Again, in these circumstances it would not be appropriate for the moratorium rules to apply. However the Crichel Down rules only require an offer to be made to the original owner or their descendants: if the offer is refused, and the current owner of the land then wished to dispose of it on the open market, the exemption would no longer apply.
- Paragraph 6: The Government does not wish to create disincentives to loans secured on land, and therefore this exemption prevents delays under the moratorium rules applying where a lender exercises a power of sale following default by the borrower.

- Paragraph 7: Disposal pursuant to insolvency proceedings, whether by the original owner or a trustee, is for the benefit of creditors and should be accomplished without unnecessary delay; it would therefore be inappropriate for the moratorium requirements to apply.
- Paragraph 8: Statutory compulsory purchase powers may only be exercised where the disposal to the local authority or other public body is essential; it would therefore be pointless to impose the moratorium rules to delay the sale in order to give community groups a chance to bid for land. The definition of “statutory compulsory purchase” in regulation 1 is broad, and includes a sale made by agreement where the compulsory purchase power would otherwise be exercised.
- Paragraph 9: This exemption would only exempt a grant of the agricultural tenancy to someone who is entitled to apply for it (where there would be no point in the moratorium rules applying). However if the agricultural land tribunal refused the request, and the holding were not disposed of under the statutory succession rules, this exemption would no longer apply.
- Paragraph 10: This exemption allows uninterrupted disposals between companies within the same group. In some cases at least one other exemption might apply – for instance transfers at nil value or transfers of a going concern business – but this exemption complements those provisions to ensure that disposals which are part of internal company reorganisations, and where no real opportunity exists for an external offer to purchase, will not be affected by the moratorium rules.
- Paragraph 11: The part-listed exemption was formulated during the passage of the primary legislation through Parliament, to meet concerns that landowners could be delayed in selling a substantial site as a result of a smaller area within it being listed. Section 95(5)(e) creates the exemption in outline, with further detail to be provided in the regulations. This paragraph therefore sets out the conditions which must be satisfied for the listed land to be regarded as part of a larger site, and the exemption to apply. The same approach is used here as for defining land with a residence for the purpose of excluding it from listing under Schedule 1 to the Regulations.
- Paragraph 12: Part 6 of the Mission and Pastoral Measure 2011 requires the responsible Church of England bodies to engage the community in future uses for a closed church. These requirements are considered sufficient to ensure the community has a satisfactory say and the chance to take a stake in the future of the building, so the moratorium provisions would be an unnecessary additional burden.
- Paragraph 13: Disposals of buildings and other land for an operational use on that land within the NHS are exempt, so as not to interfere with the ongoing delivery of health services.

- Paragraph 14: A similar exemption applies for land to be used for a school, 16-19 Academy, or further education institution, again so as not to interfere with provision of education facilities.
- Paragraph 15: This final, generally-worded, exemption ensures that where the moratorium requirements are incompatible with another statutory scheme applying to the disposal of land, the other statutory provisions will take precedence.

Compensation

7.36 Section 99 of the Localism Act allows for compensation to be provided under the scheme. We consulted on whether to restrict compensation to expenses incurred, for example the security and overheads of maintaining an empty building. However, there was a significant level of support in the consultation responses in favour of allowing compensation for loss of value of an asset due to listing, especially any delay in sale due to the interim or full moratorium. Debate in Parliament also gave rise to Government assurances that the regulations would include private landowners being able to claim for loss as well as expenses.

7.37 Regulation 14 sets out the detail. Regulation 14 (1) and (2) enable a private owner of listed land, or previously listed land, to claim compensation for loss or expense incurred while they were the owner of the land. The Government recognises that the policy does affect private property ownership rights, and the compensation provisions are intended to minimise this impact. The amount of compensation is to be determined by, and paid by, the local authority.

7.38 Paragraph (3) of regulation 14 clarifies that claims can be made for two particular types of loss or expense (without prejudice to claims based on other types), in order to ensure that a uniform approach is taken by local authorities to such claims. The owner must demonstrate that they would not have incurred that loss or expense if the land or buildings had not been listed. With regard to claims for loss of value due to delay, the policy in formulating the wording has been to allow compensation only for loss caused by a delay in sale which can be proved to be entirely attributable to the moratorium (as opposed to the normal delays to be expected in selling land). The wording in paragraph (3) and (4) also ensures that compensation will not be paid for loss due to delay in selling which in turn was caused by unreasonable delay by the owner in notifying the local authority of an intention to sell.

7.39 Paragraph (5) of regulation 14 sets out procedural details for making a compensation claim. The owner must make the claim in writing to the local authority in whose area the land lies. They must do so within thirteen weeks after the loss or expense was incurred.

7.40 In response to the consultation, 85% of those who replied to the question about how long a potential claimant should have to make a claim, agreed with a 90 day (equivalent to thirteen weeks) time limit to do so.

7.41 To minimise the burden on the local authority considering the claim, the compensation claim must state the amount they wish to claim for and include evidence to back up all parts of the claim.

7.42 Paragraph (6) of regulation 14 requires the local authority to explain in writing the reasons for their decisions – whether to pay compensation and if so how much. This is important to ensure that the process is open and transparent, and will assist in any further review or appeal proceedings.

7.43 Regulation 15 excludes public authorities (government departments, local authorities, and various other public authorities) and primarily publicly funded bodies from being eligible to claim compensation. These are bodies that are required to be audited under the terms of the Audit Commission Act 1998 or to which section 6 of the National Audit Act 1983 applies, or which may have their accounts examined under section 7 of that Act (bodies receiving over half their income from public funds). This is to avoid the use of public funds for payment to public bodies. Of those who responded to the consultation on this point, 60% agreed that compensation should be restricted to private property owners.

Review of compensation decision

7.44 Unlike the position with local authority listing decisions, the Act does not contain a right for an owner to require a review by the local authority of a compensation decision. However the power in section 99 has been used to provide this right in regulation 16. Procedural details equivalent to those in section 92 of the Act are stipulated in regulation 16, and the main procedural requirements for compensation reviews are the same as those for listing reviews, set out in Schedule 2. Paragraph 2 of Schedule 2 specifies that a written request for a compensation review must be made within 8 weeks of the date on which the owner receives the local authority's written decision regarding the compensation claim (or within such longer time as is agreed with the authority).

Appeal against compensation review decision

7.45 Regulation 17 gives owners who have claimed compensation and subsequently sought a review of the local authority's review decision the right to appeal against that review decision. As with listing appeals, the appeal will go to the First-Tier Tribunal. The time for making such an appeal is specified in the procedural rules of the General Regulatory Chamber of the First-Tier Tribunal as 28 days from the date on which the owner was sent notice of the review decision which is appealed against.

Enforcement

7.46 Under section 101 of the Act, provision may be made for enforcing compliance with section 95(1). Regulations 18 to 21 set these out (see paragraphs 4.23 to 4.32 for legal details). They are intended to provide a

strong and clear deterrent against deliberate non-compliance, and to minimise the possibility of a non-compliant sale, whether deliberate or unintentional. These measures are in addition to the requirement in section 100 of the Act, which makes the listing of land as an asset of community value a local land charge.

7.47 The main enforcement provisions are contained in the amendments, in Schedule 4 to these Regulations, to the Land Registration Rules 2003. Schedule 4 is introduced by regulation 20, with the requirements in regulations 18 (cancellation of restrictions by local authorities) and 19 (duties of owners and mortgagees to provide information) being supplementary to those. The combined effect of the provisions should ensure that only a case of deliberate fraud, perpetrated with the assistance of at least one legal professional, could result in an ineffective non-compliant disposal. The Government considers that the likelihood of such an eventuality, though technically possible, is extremely small.

Consequence of a non compliant disposal

7.48 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.

8. Consultation outcome

8.1 The Department for Communities and Local Government undertook a twelve week consultation on the contents of the statutory instruments for the Assets of Community Value provisions, from 4 February 2011 to 3 May 2011. Two hundred and fifty-six responses were received from a range of respondents from the local government sector, the voluntary and community sector, and private businesses and landowners. As part of the consultation process, the Department also held five consultation events and sector-specific roundtable meetings. The consultation document can be found on the Department's website at:

<http://www.communities.gov.uk/publications/localgovernment/righttobuyconsultation>

A summary of the consultation responses was published on the Department's website on 12 August:

<http://www.communities.gov.uk/publications/localgovernment/righttobuyresponses>

8.2 A wide range of opinions was expressed on various elements of the scheme. In general, voluntary and community groups and parish councils were supportive of the proposals and the opportunities that they offer local communities. Many local authorities were also supportive of the aims of the proposals, but expressed concern about additional burdens on local authorities in terms of costs and human resources to administer the scheme and the number of delegated powers on the face of the Bill. Many private businesses

and landowners expressed strong concerns about the impact of the provisions on the rights of land and business owners to dispose of their land at a time of their choosing.

8.3 The responses to the consultation have shaped the Regulations, and where relevant are referenced in section 7 above. In some cases key issues raised during the consultation, such as the definition of community value, the moratorium lengths and some exemptions, were responded to by adding amendments to the Bill during passage through the House of Lords.

9. Guidance

9.1 Although statutory guidance will not be issued, a detailed advice letter explaining the requirements of the legislation in the Act and the Regulations will be issued to local authorities.

10. Impact

10.1 The impact on business, charities or voluntary bodies has two aspects. Firstly, they may be landowners who will be required to comply with the scheme. The provisions allow for private owners to claim compensation for loss and expense incurred as a direct result of complying with the scheme, creating a neutral impact. We also recognise that the scheme may in some cases increase the range of bidders for a particular asset.

10.2 Secondly, charities and voluntary bodies may be beneficiaries of the scheme. We estimate that on average 700 assets will be nominated and listed each year. Of these we anticipate communities will take the opportunity to trigger the moratorium to bid to buy 94 assets per year. It is estimated that where the policy results in the successful purchase of assets by local groups, this is likely to achieve the creation of up to five jobs for each asset transferred to the community. This is in addition to the non-measurable benefits that community ownership of the asset provides to enhancing the wellbeing of the community served by the asset, and increasing the community's self reliance and engagement. Supporting community bids for assets may also mean greater potential investment in a closing or closed facility.

10.3 The impact on the public sector is mainly on local authorities as administrators of the scheme. We have assessed the impact on local authorities, and will provide additional funding to local authorities to meet one-off set up costs and ongoing costs. As landowners, local authorities and other public sector bodies may also be required to comply with the scheme. The implications of these have been discussed with central Government departments and with local authority representatives. There was recognition that the process could be incorporated into any plans for disposals. To allay concerns we have included a clear definition and exemptions where appropriate, such as that for part-listed land and specific exemptions in relation to NHS and state funded education assets.

10.4 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on the OPSI website.

11. Regulating small business

11.1 The legislation applies to small businesses.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken has three main elements.

11.3 Firstly, the definition limits assets that may be listed to those that enhance the social wellbeing or social interests of the community. The anticipated effect is to minimise the number of small businesses that will be affected by the legislation.

11.4 Secondly, the Regulations provide for compensation to private owners, including small businesses, for any loss or expense incurred as a direct result of complying with the scheme.

11.5 Thirdly, the provisions allow certain disposals, such as business to business going concern sales, to be exempt from the moratorium provisions (section 95(5) of the Act).

11.6 On the basis of the Impact Assessment, and the mitigation approaches above, Economic Affairs Cabinet Committee agreed, in December 2011, a waiver to allow these provisions to apply to micro businesses (those businesses with under 10 employees).

11.7 The basis for the final decision on what action to take to assist small business was based on the consultation and subsequent discussion with organisations representing businesses.

12. Monitoring & review

12.1 It is planned to review the impact of the policy 3 years after commencement.

13. Contact

Albert Joyce at the Department of Communities and Local Government Tel: 0303 44 41720 or email: albert.joyce@communities.gsi.gov.uk can answer any queries regarding the instrument.