EXPLANATORY MEMORANDUM TO

THE NEW TOWNS ACT 1981 (LOCAL AUTHORITY OVERSIGHT) REGULATIONS 2018

2018 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Ministry of Housing Communities and Local Government and is laid before Parliament by Command of Her Majesty.

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

2. Purpose of the instrument

2.1 The main purpose of these Regulations is to transfer specific functions related to the oversight of new town development corporations from the Secretary of State to a local authority or authorities.

2.2 These Regulations also includes modifications to the New Towns Act 1981, which are required to implement the transfer of oversight of new town development corporations from the Secretary of State to one or more local authorities.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This is the first use of the power in section 1A of the New Towns Act 1981.

Other matters of interest to the House of Commons

3.2 This entire instrument applies only to England.

3.3 In the view of the Department, for the purposes of House of Commons Standing Order 83P the subject-matter of this entire instrument would be within the devolved legislative competence of the Northern Ireland Assembly if equivalent provision in relation to Northern Ireland were included in an Act of the Northern Ireland Assembly as a transferred matter and the Scottish Parliament if equivalent provision in relation to Scotland were included in an Act of the Scottish Parliament and the National Assembly for Wales if equivalent provision in relation to Wales were included in an Act of the National Assembly for Wales.

4. Legislative Context

4.1 Section 16 of the Neighbourhood Planning Act 2017 inserted section 1A into the New Towns Act 1981. It provides that the oversight of new town development corporations may rest with the local authority or authorities covering the designated area for the new town, rather than the Secretary of State.

5. Extent and Territorial Application

5.1 The instrument extends to England and Wales.

5.2 The territorial application of this instrument is set out in Section 3 under "Other matters of interest to the House of Commons.

6. European Convention on Human Rights

6.1 Dominic Raab MP, Minister of State for Housing and Planning, for the Ministry of Housing Communities and Local Government, has made the following statement regarding Human Rights:

"In my view the provisions of the New Towns Act 1981 (Local Authority Oversight) Regulations 2018 are compatible with the Convention rights."

7. Policy background

What is being done and why

7.1 Section 16 of the Neighbourhood Planning Act 2017 enables in principle the creation of new town development corporations which are accountable to the local authority or authorities in the area designated for the new town, rather than to the Secretary of State. These regulations provide the detailed legislative changes required to make that work in practice.

7.2 A commitment to do this was made in the Housing White Paper published in February 2017. It can be found on page 28 via the following link:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/590464/Fixing_our_broken_housing_market_-_print_ready_version.pdf

7.3 The earlier generation of new town development corporations which delivered the post-war new towns were accountable to central government. The powers to create new town development corporations accountable to the Secretary of State remain on the statute book. We consider though that, alongside this, we need to create an oversight mechanism which reflects the locally-led approach to new garden towns and villages in our current programme.

7.4 The Regulations seek to transfer functions from the Secretary of State to the oversight authority, as is consistent with ensuring that these new town development corporations are genuinely locally-led.

7.5 Within the limitations of the scope of these Regulations we have sought to set requirements for both the oversight authority and new town development corporation that will deliver high quality, well designed communities that are sustainable for the long term.

7.6 The local authority or authorities which have oversight of the new town development corporation will need to ensure that proper controls, including financial controls are in place. We expect the new town development corporation to have significant operational independence to get on with the job of delivering the new garden community, drawing in private sector expertise and investment. The Regulations require that a majority of the Board of the new town development corporation, including the Chair and the Deputy Chair, should be comprised of independent members and that in making appointments to the Board the oversight authority should seek to ensure that the skills which will be required to successfully deliver a project of this scale and complexity are represented.

7.7 We are clear that a locally-led new town development corporation will only be created where this has the express support of and is requested by all the local authorities, including in two tier areas the county council, covering the area to be designated for the new town.

7.8 We would expect the local authority or authorities requesting the designation of an area for a new town and the establishment of a locally-led new town development corporation to have a strong evidence base demonstrating that the site or sites are suitable for development at the scale proposed.

7.9 The designation of the area of a new town and establishment of a new town development corporation will remain dependent on Parliamentary approval of the statutory instruments. Prior to these being laid, the Secretary of State will need to have consulted in line with the requirements in sections 1 and 3 of the New Towns Act 1981 and be satisfied that the statutory test in section 1, that it is expedient in the national interest that any area of land should be developed as a new town by a corporation established under the Act, is met.

Consolidation

7.10 These Regulations are the first exercise of the power in section 1A to the New Towns Act 1981 and therefore consolidation is not applicable.

8. Consultation outcome

8.1 The Ministry of Housing, Communities and Local Government consulted on the draft regulations of the New Towns Act 1981 (Local Authority Oversight) between 4th December 2017 and 2nd January 2018. Ninety-two responses were received; 17 from local authorities, 6 from professional bodies, 6 from other representative groups, 5 from developers and 58 from members of the public. The responses contained a broad range of views, many of them very detailed. The Ministry has made a number of changes to these Regulations following the consultation. The most significant change is to remove the requirement for HM Treasury consent for borrowing by the new town development corporation in excess of £100 million. Instead, borrowing levels for the locally led new town development corporation will be agreed between HM Treasury and the local authorities which will form the oversight authority as part of agreeing the financial parameters within which the new town development corporation will operate. Further details of the consultation responses will be published at https://www.gov.uk/government/consultations/the-new-towns-act-1981-local-authority-oversight-regulations.

9. Guidance

9.1 The Government will be publishing guidance on these Regulations, covering for example the circumstances in which government would expect, in response to a request from the local authority or authorities, to consult on the designation of an area for a new town and expectations on new town development corporations in relation to delivery.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector may, in some cases, be significant. The creation of locally-led new town development corporations may result in additional costs for

local authorities compared to other delivery vehicles for large scale housing development. It will though be entirely for the local authority or authorities covering the area of the proposed new town to decide to request the establishment of a locally-led new town development corporation, taking account of the benefits this may bring.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 The Ministry of Housing, Communities and Local Government will review and evaluate the success of the changes within three years of the establishment of a locally-led new town.

13. Contact

13.1 Ben Grubb at the Ministry of Housing, Communities and Local Government Telephone 0303 444 1601 or email: Ben.grubb@communities.gsi.gov.uk can answer any queries regarding the instrument.