EXPLANATORY MEMORANDUM TO THE

HOUSING (RIGHT TO BUY) (DESIGNATED RURAL AREAS AND DESIGNATED REGIONS) (ENGLAND) (No.2) ORDER 2004

2004 No. 2681

1. This explanatory memorandum has been prepared by the Office of the Deputy Prime Minister and is laid before Parliament by Command of Her Majesty.

2. Description

2. This Order designates certain parishes in the districts of Chester and Stratford-upon-Avon and the boroughs of Test Valley, Harrogate and Taunton Deane as rural areas for the purposes of section 157 of the Housing Act 1985. It also designates, for those purposes, the district or borough in which those rural areas are situated as the region for those rural areas.

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

3. None

4. Legislative Background

4.1 Part 5 of the Housing Act 1985 provides for the right of secure tenants to buy their homes from their landlord at a discount. The 1985 Act was a consolidating Act, and Part 5 was derived from the Housing Act 1980.

4.2 Where a tenant buys a dwelling-house in a designated rural area, the landlord may choose to impose a covenant limiting the freedom of the tenant (and his successors in title) to dispose of the dwelling-house. The landlord can choose one of two alternative limitations. The first limitation is that onward disposals require the landlord's consent unless they are to local people who have lived or worked in the designated region for that rural area for the previous 3 years. The second limitation is that for the period of 10 years, beginning with the date of the original conveyance or grant, there will be no disposals unless the tenant purchase has first offered to transfer the property back to the landlord for full market value.

4.3 The power conferred by section 157 of the Housing Act 1985 to designate rural areas and regions has been exercised on many occasions. This Order follows the patter of earlier Orders.

5. Extent

5. This instrument applies to England.

6. European Convention on Human Rights

6. Not applicable.

7. Policy background

7.1 Concern about the impact of the Right to Buy in rural areas, on the basis that it might cause stocks of social housing to dwindle, or that homes might be bought up as second homes by people not local to the area, was first expressed in 1980, the year the Housing Act 1980, which first gave secure tenants the Right to Buy, was passed. Section 157 of the Housing Act 1985 ("section 157"), which is derived from section 19 of the Housing Act 1980, was therefore designed so that landlords in certain rural areas could impose limitations in conveyances and grants regarding future disposals.

7.2 The Government today remains concerned about the impact of the Right to Buy on the availability of affordable housing in rural areas. So as part of its Action Programme *Sustainable communities: building for the future*, published on 5 February 2003, the Government announced its decision to modernise the Right to Buy in January 2003.

7.3 The criteria for considering applications for areas to be designated as 'rural' for the purposes of section 157 were relaxed. Section 157 provides that landlords in particular areas can impose certain limitations on the subsequent disposal of homes acquired under the Right to Buy scheme. The areas concerned are (i) National Parks, (ii) Areas of Outstanding Natural Beauty, and (iii) areas designated by the Secretary of State as 'rural' for the purposes of section 157.

7.4 In such areas landlords can either restrict the resale of such homes to people who have lived or worked locally for at least three years, or require people who have bought their home under the Right to Buy and wish to dispose of it within ten years of their original purchase to first offer it back to their former landlord for purchase at full market value. The second restriction requires consent from the Secretary of State if the landlord is a local authority, or from the Housing Corporation if the landlord is a housing association, before it can be imposed. A general consent has been given by the Secretary of State, but not by the Housing Corporation, so in practice local authority landlords have a free choice between the two limitations.

7.5 Applications for designation as a 'rural' area are assessed parish by parish. The current criteria are:

- towns with more than 3,000 inhabitants are ineligible;
- population density must normally be two persons or less per hectare.

The second criterion can be applied flexibly.

7.6 Thirty areas of England have been designated as 'rural' for this purpose since 1980, five of which have been designated since the criteria were relaxed in January 2003.

8. Impact

8. A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

9. Ms Jacqueline Henry at the Office of the Deputy Prime Minister (tel: 020 7944 3427, or email jacqueline.henry@odpm.gsi.gov.uk).