**EXPLANATORY MEMORANDUM TO**

**THE HOUSING (RIGHT TO BUY) (LIMIT ON DISCOUNT) (ENGLAND) (AMENDMENT) ORDER 2014**

**2014 No. 1865**

**1.** This explanatory memorandum has been prepared by the Department for Communities and Local Government 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 instrument

2.1 Article 4 of the Housing (Right to Buy) (Limit on Discount) (England) Order 2014 revoked the Housing (Right to Buy) (Limit on Discount) (England) Order 2012 in its entirety whereas it should only have revoked Article 3 of that Order. This Order corrects this error.

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

3.1 The 21 day rule has been breached. The Housing (Right to Buy) (Limit on Discount) (England) Order 2014 comes into force on the 21st July. To ensure that the error in Article 4 of that Order is corrected before that Order comes into force this Order has been made and comes into force on 20th July.

## 4. Legislative Context

4.1 A person exercising the right to buy a dwelling-house under Part V of the Housing Act 1985 (the Act) may be entitled, under sections 129 to 131 of and Schedule 4 to the Act, to a discount equal to a percentage of the price before discount.

4.2 The discount may not reduce the price by more than such sum as the Secretary of State may by order prescribe nor may it reduce the price below an amount representing the costs incurred by the landlord over a specified period of time (the 'period of account') in respect of the dwelling-house in accordance with a determination by the Secretary of State made under section 131 to the Act.

4.3 Article 2 of the Housing (Right to Buy) (Limit on Discount) (England) Order 2012 specified the period of account for the purpose of section 131(1)(a). The period of account is the time used to calculate costs incurred by the landlord in respect of a dwelling-house. Article 2 specified that this period of account be ten years for dwelling-houses acquired by the landlord

prior to 2nd April 2012 and fifteen years for dwelling-houses acquired by the landlord on or after 2nd April 2012. This should not have been revoked, rather only Article 3 of the Housing (Right to Buy) (Limit on Discount) (England) Order 2012 which specified the maximum discount should have been revoked. This Order ensures that only Article 3 is revoked.

## 5. Territorial Extent and Application

5.1 This instrument applies to England.

## 6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## 7. Policy background

7.1 The Right to Buy scheme was introduced in 1980 and gives qualifying social tenants the opportunity to buy their rented home at a discount. The scheme is open to secure tenants of local authorities and non-charitable housing associations. It is also open to those assured tenants of housing associations who have transferred with their homes from a local authority as part of a stock transfer – this is known as the Preserved Right to Buy. To date, more than 1.9 million homes have been sold under the Right to Buy.

7.3 To qualify for the Right to Buy, tenants must have spent at least 5 years as public sector tenants. Once eligible, the discount rate for houses is 35 per cent of the property's value plus 1 per cent for each year beyond the qualifying period up to a maximum of 60 per cent. On flats the discount starts at 50 percent, increasing 2 per cent for each year beyond the qualifying period up to a maximum of 70 per cent.

7.4 The maximum discount which a tenant can receive is limited by secondary legislation; this discount cannot reduce the price more than that specified in secondary legislation nor can the discount reduce the price below an amount representing the costs incurred by the landlord over a specified period. This specified period may be determined by the Secretary of State. In the Housing (Right to Buy)(Limits on Discount)(England) Order 2012 this period was specified as ten years for dwelling-houses acquired by the landlord prior to 2nd April 2012 and fifteen years for dwelling-houses acquired by the landlord on or after 2nd April 2012. This specified period is to continue.

## 8. Consultation outcome

8.1 No consultation was undertaken. The Housing (Right to Buy)(Limits on Discount)(England) Order 2014 revoked the entirety of the Housing (Right to Buy)(Limits on Discount)(England) Order 2012 rather than just Article 3. This Order amends that error.

## 9. Guidance

9.1 Housing Authorities and Registered Providers will be notified that the Order has come into force.

## 10. Impact

10.1 This Order has no impact on charities, the voluntary sector or the public sector.

## 11. Regulating small business

11.1 The legislation does not apply to small business.

## 12. Monitoring & review

12.1 This Order will have no impact outside of any impact of the Housing (Right to Buy)(Limits on Discount)(England) Order 2014. The Housing (Right to Buy)(Limits on Discount)(England) Order will be under ongoing review. The increase in the Right to Buy discount will mean that eligible social tenants continue to have the opportunity to own their home if they wish to do so. The extent to which Right to Buy is taken up depends on a large number of mainly external factors such as the general economic climate. The Department for Communities and Local Government will therefore continue to collect and publish figures quarterly on the numbers of Right to Buy sales.

## 13. Contact

Saoirse Cowley at the Department for Communities and Local Government (tel: 0303 444 3366 or email: Saoirse.Cowley@communities.gsi.gov.uk) can answer any queries regarding the instrument.