EXPLANATORY MEMORANDUM TO

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

2014 No. 1378

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 A person exercising the right to buy a dwelling-house under Part V of the Housing Act 1985 may be entitled to a discount equal to a percentage of the price before discount. This Order prescribes that the maximum discount is £102,700 for dwelling-houses situated in London authorities and £77,000 for areas outside London. The Order also prescribes that the maximum discount that person may receive is adjusted annually on 6 April to reflect the percentage increase in the consumer prices index over a specific period. The Order also provides for continued application of the Housing (Right to Buy)(Limits on Discount)(England) Order 2012 and the Housing (Right to Buy)(Limits on Discount)(England) Order 2013 in specific circumstances.

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

3.1 None

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 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 This Order prescribes the maximum discount from the date of this Order to 5 April 2015 as £102,700 where the dwelling-house lies within the area of a London authority and £77,000 where the dwelling-house is located elsewhere in England.

4.4 This Order also provides that for each 12 month period subsequent to 5 April 2015, the maximum discount prescribed by this Order is increased by the annual percentage change in the consumer prices index over the period of the September before the previous period and the September in the previous period.

4.4 The maximum discount prescribed by this Order applies to applications for the right to buy made by notice under section 122 of the Act served on or after the date this Order came into force and to applications where the notice under section 122 was served before the date this Order came into force but the conveyance or grant under Part V of the Act has not taken place on or before the date this Order came into force.

4.5 The Order also provides for continued application of the Housing (Right to Buy)(Limits on Discount)(England) Order 2012 and the Housing (Right to Buy)(Limits on Discount)(England) Order 2013 in specific circumstances.

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 This Order amends the maximum discount limit for Right to Buy to £102,700 for properties situated within the 33 London authorities; and to £77,000 for properties situated in the rest of England. The Order revokes the section of the 2012 Order which prescribes a maximum discount of £75,000; and revokes in its entirety the 2013 Order which prescribes a maximum discount of £100,000 in London.

7.2 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 But the maximum discount which a tenant can receive is limited by secondary legislation. The 2012 and 2013 Discount Orders introduced maximum national discounts of £75,000 and £100,000 (London only), replacing the previous lower regional discounts.

7.5 The Government is concerned that increases in property prices have eroded the value of the Right to Buy discounts and will continue to do so, meaning that many social tenants would be unable to achieve their aspiration for home ownership.

7.6 The new discounts of £102,700 and £77,000 aim to keep the balance between property prices and Right to Buy discounts. The provision to amend the discounts annually in line with increases in the consumer prices index will provide social tenants with a continuing opportunity to achieve affordable and sustainable home ownership. The increase in the discount meets the undertaking the Government made in the Explanatory Memorandum which accompanied the 2012 Discount Order, to keep the impact of the Order under continuous review to ensure it was working effectively.

7.7 The Government also intends to increase the maximum percentage on houses from 60 per cent to 70 per cent to bring it in line with the maximum percentage available on flats. This is being done through the Housing (Right to Buy)(Maximum Percentage Discount)(England) Order 2014 which is subject to the affirmative resolution procedure. The terms of the Right to Buy scheme are otherwise unchanged.

8. Consultation outcome

8.1 The Department consulted in December 2011 to January 2012 regarding the increase of the maximum Right to Buy discount. The Right to Buy consultation and the Government's response can be accessed here: https://www.gov.uk/government/consultations/reinvigorating-right-to-buy--2

8.2 The Government has sought informal views on the changes from a targeted group including the Council of Mortgage Lenders, Local Government Association, Building Societies Association and National Housing Federation; and has sought feedback from other interested parties including social tenants through Right to Buy social media.

8.3 It was considered that a further formal consultation was not needed because no substantial issues were raised and the relevant considerations concerning any increase in the maximum discount have not changed substantially since the consultation in January 2012.

9. Guidance

9.1 Housing Authorities and Registered Providers will be notified that the Order has come into force. These authorities have a statutory duty under sections 121A and 121B of the Act to advise their tenants of changes to the Right to Buy discount. The Department for Communities and Local Government will also publicise the changes and issue information and guidance for tenants and social landlords.

9.2 The Department for Communities and Local Government announced the proposed changes in January 2014 and has since written to social landlords to advise on the proposed timetable for implementing the changes to allow landlords to take account of, and plan for, the impact of these changes. The proposed changes were also publicised through the Department's direct marketing campaign and on the Directgov website.

9.3 The Department will issue further information and guidance for tenants and social landlords when the Order is laid which will include factual material to address common queries in particular on the application of the transitional arrangements. The Department will also publish the revised Right to Buy discounts annually to ensure that social landlords and tenants are aware of the correct amounts. Our intention is to publish this information by the end of January each year.

10. Impact

10.1 There is no impact on charities or voluntary bodies. The Impact Assessment which accompanied the original consultation paper (https://www.gov.uk/government/consultations/reinvigorating-right-to-buy--2) identified three possible areas of impact on housing associations that sell properties under the Preserved Right to Buy – i) cost of one for one replacement, ii) cost of administering sales, and iii) possible impact upon the business due to loss of assets. Our analysis at the time, drawing on responses to the consultation, indicated that these impacts would be minimal. We do not believe that this change will alter our original assessment.

10.2 The impact on the public sector is that social landlords may have additional administrative costs where they need to issue revised Right to Buy offer notices so that tenants get the discount they are entitled to. The Government has set flat allowances for London and the rest of England which compensate social landlords for administering Right to Buy applications.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 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. There will be a continuous ongoing review to assess the impact of this Order.

13. Contact

Diana Fergus at the Department for Communities and Local Government (tel: 0303 444 3798 or email: Diana.fergus@communities.gsi.gov.uk) can answer any queries regarding the instrument.