EXPLANATORY MEMORANDUM TO

THE HOUSING (RIGHT TO BUY) (DESIGNATED RURAL AREAS AND DESIGNATED REGIONS) (ENGLAND) ORDER

2006 No. 1948

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.

2. Description

Section 157 of the Housing Act 1985 ("the Act") enables landlords selling houses and flats under Part 5 of the Act to impose conditions restricting sale by the purchaser where the property is in a designated rural area. This Order designates certain parishes in the district of Hambleton in North Yorkshire as rural areas for the purposes of that section. It also designates, for the purposes of section 157(3), the district 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

None

4. Legislative Background

4.1 Part 5 of the Act (which derived from equivalent provisions in the Housing Act 1980) provides for the right of secure tenants to buy their home from their landlord at a discount. Within Part 5, section 157 of the Act provides that local authority or housing association 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 of the Act.

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 it. The landlord can choose one of two alternative forms of covenant (neither of which will apply to exempted disposals as defined in section 160 of the Act, such as disposals to a spouse or family member). By these covenants landlords can either -

- restrict the sales 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.

4.3 The first covenant is specified in section 157(3) of the Act. It requires the landlord's consent to a disposal of the property, with the landlord being unable to withhold

consent if the disposal is to a local person whose place of work or only or principal home has been within the designated region for that rural area for the previous 3 years.

4.4 The alternative limitation provides that for a period of 10 years beginning with the date of the original conveyance or grant, where it is proposed to make a non-exempt disposal the landlord must first be given the opportunity to buy the property back for full market value (i.e. a right of first refusal). To exercise this second alternative the landlord must obtain the consent of the Secretary of State or, where the landlord is a housing association, of the Housing Corporation. The Secretary of State has given a general consent for this covenant to be used by a vendor other than a housing association. This covenant was formerly contained in section 157(4) of the Act. A covenant in the same terms applicable to any right to buy sale was introduced in section 156A of the Act, inserted by the Housing Act 2004, and by section 156A(8) the covenant was specifically extended to a case in which section 157(1) applies.

5. Extent

This instrument applies in relation to England.

6. European Convention on Human Rights

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

7. Policy background

7.1 Section 157 of the Act enables landlords in designated rural areas to protect their stock of public housing. Concern about the impact of the right to buy in rural areas was first expressed in 1980, the year the Housing Act 1980 (which first gave secure tenants the right to buy) was passed. The concern was that exercise of the right to buy 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. 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 has remained concerned about the impact of the right to buy on the availability of affordable housing in rural areas and the criteria for designation were relaxed in January 2003. Applications for designation as a rural area are assessed parish by parish. The current criteria are:

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

7.3 Orders are made in response to requests for designation from the relevant local authorities, subject to satisfaction of the criteria summarised in paragraph 7.2. No consultation is carried out by the Department for Communities and Local Government on the making of individual rural designation orders, but authorities that apply for designation are asked to explain why they consider that this would be appropriate. Hambleton carried out a housing survey in 2004 which suggests that local people are increasingly excluded from the local housing market, and that the factors responsible for this are high demand for housing and sharply rising costs of home purchase, in the

context of a level of average local income which is not rising proportionately to local housing costs.

7.4 Forty orders for rural designation in England have been made since 1980, fourteen of which have come into effect since the criteria were relaxed in January 2003.

8. Impact

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

9. Contact

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