EXPLANATORY MEMORANDUM TO THE

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

2005 No. 1995

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

Section 157 ("section 157") of the Housing Act 1985 ("the 1985 Act") enables landlords in designated rural areas to protect their stock of public housing by imposing conditions in right to buy sales under Part 5 of that Act. This Order designates certain parishes in the districts of Ryedale and Tendring as rural areas for the purposes of section 157. It also designates, for the purposes of section 157(3), the districts in which those rural areas are situated as the regions 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 1985 Act 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 forms of covenant (neither of which will apply to exempted disposals as defined in section 160 of the 1985 Act, such as disposals to a spouse or family member).

4.3 The first covenant requires the landlord's consent to a disposal of the property (other than an exempted disposal), with the landlord being unable to withhold consent if the disposal is to a local person who has lived or worked in the designated region for that rural area for the previous 3 years. The alternative limitation is that for a period of 10 years beginning with the date of the original conveyance or grant, for any disposal other than an exempted 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.

5. Extent

This instrument applies in relation to England.

6. European Convention on Human Rights

No statement is required.

7. Policy background

7.1 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 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.

7.3 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. General consent has been given by the Secretary of State to local authorities.

7.4 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.

7.5 Thirty five orders for rural designation in England have been made since 1980, ten 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

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