

## POLICY NOTE

### THE COMMUNITY EMPOWERMENT (REGISTERS OF LAND) (SCOTLAND) REGULATIONS 2016

#### SSI 2016/362

The above instrument was made in exercise of the powers conferred by section 94(4) of the Community Empowerment (Scotland) Act 2015. The instrument is subject to negative procedure.

#### Policy Objectives

Section 94 of the Community Empowerment (Scotland) Act 2015 requires each relevant authority to establish, maintain and make available for inspection a register of land which, to the best of its knowledge and belief, is owned or leased by the authority. An aim of this is to help community transfer bodies to be aware of what land or buildings may be available through asset transfer.

Section 94(4) provides that the Scottish Ministers may make regulations specifying land or descriptions of land that a relevant authority need not include in its register. However, an asset transfer request may be made for any land owned or leased by a relevant authority, even if it is not included in the register.

The Regulations provide that the following descriptions of land need not be included in the register:

- (a) **Roads.** Including all roads would make registers much larger for no purpose, as community bodies are unlikely to want to take over roads. If they do, it is usually clear who to approach. The definition covers pavements, footpaths and cycle paths.
- (b) **Underground railways,** together with stations and other land forming part of or ancillary to the operation of the railway. In practice, this applies only to Strathclyde Partnership for Transport (SPT), in relation to the Glasgow Subway.
- (c) **Canals,** including towpaths, bridges, reservoirs etc, which are ancillary to the operation of the canal.
- (d) **Bus stations** and associated facilities.  
These are facilities that community bodies could not take over in part, as they work as part of a single system. If community bodies are interested in using land associated with them, it is usually clear who to approach.
- (e) **Houses, hostels and lodging-houses.** As with roads, including all houses would make registers much larger. There are also concerns about the privacy of tenants and security for accommodation for vulnerable people. Community bodies do not often want to take over houses that are occupied, and special arrangements would apply if they wanted to transfer social housing to a new landlord.

The exclusion does not apply to commercial hostels and lodging houses, such as tourist accommodation, or to properties that are surplus to the requirements of the relevant authority, which will usually mean they are empty and available for sale.

- (f) **Land used for the supply of drinking water and disposal of waste water, and certain reservoirs.**
- (g) **Radio masts for the emergency services network**, and ancillary land.
- (h) **Sites used for covert policing.**

The location of these facilities is not published in the interests of national security and the prevention and detection of crime.

- (i) **Souvenir plots.** These are areas of land that are of “inconsiderable size and no practical utility” and have never been registered, as described in section 22 of the Land Registration (Scotland) Act 2012
- (j) **Mineral rights** owned or leased separately from the land to which they relate. The ownership and exercise of such rights is likely to be complex and would require significant investigation to put them on a register.

## **Consultation**

Draft Regulations were developed with a steering group of public sector and community sector stakeholders, and a public consultation was carried out from 17 March to 20 June 2016. Details of the consultation and responses are available at

<https://consult.scotland.gov.uk/community-empowerment-unit/asset-transfer-procedures>

87% of those who responded to the question on registers of land agreed with the proposed descriptions of land that need not be included. A number of responses sought clarification on the definitions, which we have considered and addressed where necessary.

A separate question asked whether any additional descriptions of land should be specified. A wide range of suggestions were made. However, it appeared that some responses were based on the mistaken belief that excluding types of assets from registers would prevent them being subject to an asset transfer request.

As a result of the consultation categories (f) to (j) above were added, and (e) was adjusted to remove commercial hostels. We worked with SPT, Scottish Canals, Scottish Water and Police Scotland to confirm the terms of the categories that relate to them.

## **Impact Assessments**

There are no issues for which impact assessments are required.

## **Financial Effects**

The Minister for Local Government and Housing confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government  
Local Government and Communities Directorate  
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