

POLICY NOTE

THE COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015 (COMMENCEMENT NO. 4 AND TRANSITORY PROVISION) ORDER 2016

SSI 2016/363 (C. 32)

The above instrument was made in exercise of the powers conferred by section 145(2) and (3) of the Community Empowerment (Scotland) Act 2015. The instrument is not subject to any Parliamentary procedure.

Policy Objectives

Article 2 provides that Part 2 of the Act, which makes provision in relation to community planning, comes into force on 20 December 2016, together with schedule 1 of the Act which lists the community planning partners. Some sections of Part 2 were commenced previously, to allow the Scottish Ministers to make regulations and consult on guidance.

Article 3 provides that provisions connected to asset transfer requests will come into force on 23 January 2017. The main provisions are in Part 5 of the Act, and schedule 3 lists “relevant authorities” to which requests can be made. Some sections of Part 5 were commenced previously, to allow the Scottish Ministers to make regulations and consult on guidance.

Section 19, which defines a “community-controlled body”, is commenced because the definition of a “community transfer body”, which can make an asset transfer request, depends on it.

Part 6 of the Act amends the meaning of a “community body” in the Forestry Act 1967, relating to the types of body which can lease land from the Forestry Commission for forestry purposes. The amendments bring the definition closer to the requirements for a community controlled body, so that a body which can make an asset transfer request for lease would also be able to request delegation of forestry functions.

Article 4 provides that the asset transfer report to be published no later than 30 June 2018 must include information in relation to the period from commencement of Part 5 on 23 January 2017 to 31 March 2018. Section 95 requires a relevant authority to publish a report for each reporting year beginning on 1 April, setting out the number of asset transfer requests received, agreed to, refused, appealed, etc. This transitory provision ensures that any requests received before 1 April 2017 will be captured in the report to be published on 30 June 2018.

Scottish Government
Local Government and Communities Directorate

8 November 2016