

POLICY NOTE

THE COMMUNITY EMPOWERMENT (MISCELLANEOUS AMENDMENTS) (SCOTLAND) REGULATIONS 2016

SSI 2016/411

The above instrument was made in exercise of the powers conferred by sections 81(1), 83(10), 85(3), 86(3), 87(3), 90(12) and (14) and 94(4) of the Community Empowerment (Scotland) Act 2015. The instrument is subject to negative procedure.

Policy Objectives

This instrument is made in performance of an undertaking given to the Delegated Powers and Legislative Reform Committee of the Scottish Parliament, to address a number of defects in regulations made under Part 5 (Asset Transfer Requests) of the Community Empowerment (Scotland) Act 2015 (“the Act”). The amendments will come into effect before the main regulations come into force.

Several of the amendments are common to more than one set of regulations:

Regulation 2 amends the Asset Transfer Request (Procedure) (Scotland) Regulations 2016.

Regulation 3 amends the Asset Transfer Request (Review Procedure) (Scotland) Regulations 2016.

Regulation 4 amends the Asset Transfer Request (Appeals) (Scotland) Regulations 2016.

Regulation 5 amends the Asset Transfer Request (Appeal Where No Contract Concluded) (Scotland) Regulations 2016.

Regulations 2(3), 3(3), 4(2) and 5(3) replace the provisions relating to the contact address to be used in relation to the asset transfer request, review, appeal or application, as the case may be. They clarify that more than one contact address can be designated by the community transfer body, and that they are only changed if the community transfer body expressly informs the relevant authority or Scottish Ministers of a change, as appropriate.

In replacing this provision, regulation 3(3) also corrects an error in regulation 18(2) of the Asset Transfer Request (Review Procedure) (Scotland) Regulations 2016 which made reference to “the Scottish Ministers” instead of “the relevant authority”.

Regulation 2(2), 3(4), 4(3) and 5(4) amend the provisions relating to electronic communications. They clarify that where the community transfer body provides an address for electronic communication in their request, appeal or application, it is taken to have agreed to the use of electronic communications in relation to that matter, to be sent to that address. They also provide that all documents sent to the community transfer body electronically must be sent to that electronic communication contact address, and may also be sent to any other address from which the community transfer body has sent documents relating to the request, appeal or application.

Regulations 3(2) and 5(2)(a) provide amended wording to clarify that, in appointing a review panel, the Scottish Ministers may appoint 3 persons none of whom is a member of their staff.

Regulation 5(2)(a) inserts the words “of the Act” after the reference to section 83(6) in regulation 5(1) of the Asset Transfer Request (Appeal Where No Contract Concluded) (Scotland) Regulations 2016, to provide consistency with other references to sections of the Community Empowerment (Scotland) Act 2015. Paragraph (5) corrects the phrase “review panel person” in paragraph 4(2)(a) of the schedule to those regulations, which should be “review panel”.

Regulation 6 amends the Community Empowerment (Registers of Land) (Scotland) Regulations 2016. Paragraph (2)(a) corrects the numbering of sub-paragraphs in regulation 2. Paragraphs (2)(b) and (c) correct the titles of the Acts referred to in sub-paragraphs (g) and (i).

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
6 December 2016