

EXECUTIVE NOTE

DRAFT : THE COMMUNITY RIGHT TO BUY (DEFINITION OF EXCLUDED LAND) (SCOTLAND) ORDER 2009

Introduction

1. The draft Order is made in exercise of the powers conferred by sections 33(2) and 98(3) of the Land Reform (Scotland) Act 2003 (“the Act”). This instrument revokes the Community Right to Buy (Definition of Excluded Land) (Scotland) Order 2006 (S.S.I. 2006/486) (“the 2006 Order”), which in turn revoked the Community Right to Buy (Definition of Excluded Land) (Scotland) Order 2004 (S.S.I. 2004/296) (“the 2004 Order”). The Order is subject to draft affirmative Parliamentary procedure.

Policy Objectives

2. The purpose of the instrument is to define land which is exempt from the community right to buy regime in Part 2 of the Act. It does so by defining “Excluded Land” in respect of which community bodies may not register an interest. “Excluded land” comprises land within the settlements listed in Schedule 1 to the draft Order. They are settlements of over 10,000 population (as specified by the General Register Office for Scotland in 2006 in its “Mid-2006 Population Estimates for Settlements in Scotland”, published on 10 July 2008). All land in Scotland outwith these listed settlements (and foreshore areas adjacent to such settlements) is therefore “registrable land”, in respect of which an application to register a community interest may be made.

3. The draft Order amends the 2006 Order in two ways:

- **It designates an additional settlement as excluded land and hence removes that land from the community right to buy provisions in Part 2 of the Act** (settlements now above 10,000 population but previously below):
 - Armadale
- **It establishes new boundaries for four settlement areas which were previously constituted as separate communities. This has had the effect of bringing previously registrable settlements within an excluded land area.** (settlements previously separate and now amalgamated or re-named):
 - Bathgate – now **Blackburn** and Bathgate
 - Bonnybridge – now Bonnybridge and **Banknock**
 - Falkirk – now Falkirk and **Hallglen**
 - Whitburn – now Whitburn and **East Whitburn**.

4. Article 2(2) of the draft Order makes provision so that any applications to register an interest in land within currently eligible settlements, but which will be excluded under the Order, are able to be submitted until such time as the Order comes into force. After this date, land within such settlements will be designated as

excluded land, and an application in respect of such land may not be competently made.

5. The maps which outline the settlement boundaries of the excluded settlements are provided for in “The Community Right to Buy (Definition of Excluded Land (Scotland) Order 2009: Definitive Maps”. These revised maps reflect changes to settlement boundaries since the 2006 Order came into force. The maps are available in hard copy in the Scottish Government Library and Rural Directorate offices in Edinburgh. They are also being made available through the Rural Communities Mapping Tool, which is accessible via the web link <http://www.scotland.gov.uk/Topics/Rural/rural-land/right-to-buy/MappingTool>.

Consultation

6. Both the 2006 Order (approved by Parliament on 27 September 2006) and the 2004 Order (approved by Parliament on 28 April 2004) use a 10,000 population threshold to define excluded land for the purposes of Part 2 of the Act. This definition was adopted following an extensive consultation prior to the first Order on an initial proposal to adopt a 3,000 population threshold. Since the 2004 Regulations came into force, no new policy concerns have been raised. The 2009 draft Order maintains the 10,000 population threshold whilst reflecting the latest geographical interpretation of population statistics and settlement boundary information published by the General Register Office for Scotland. Accordingly, no further consultation exercise on this new instrument has been undertaken.

Financial effects

7. The instrument has no financial effects on the Scottish Government, local government business or the voluntary sector. The need for a Regulatory Impact Assessment was considered but as the instrument will have no impact on these sectors, it was not considered necessary to undertake one.

Scottish Government
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