

**EXPLANATORY MEMORANDUM TO  
THE LOCAL GOVERNMENT PLANNING AND LAND ACT 1980  
(AMENDMENT OF SCHEDULE 16)(ENGLAND) ORDER 2011**

**2011 No. 1399**

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

1.1 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 This Order provides for the amendment of Schedule 16 of the 1980 Local Government Planning and Land Act (“the Act”) that contains the names of those public bodies subject to a process set out in Part X of the Act, more commonly known as Public Request to Order Disposal (PROD). This existing process will henceforth be referred to within Government as part of the wider policy agenda of the Community Right to Reclaim Land.

2.2 The Order inserts three additional public bodies into Schedule 16: namely, the Greater London Authority, Transport for London and The British Transport Police. No public bodies are to be removed from Schedule 16 under this Order, nor any existing entries amended.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

4. **Legislative Context**

4.1 The Local Government, Planning and Land Act 1980, Part X, sets out a process under which the Secretary of State may direct the disposal of certain unused, or underused land owned by bodies listed in Schedule 16, including in cases where members of the public or others have requested that such disposals be made. In such cases, having received and assessed the merits of a request, the Secretary of State for Communities and Local Government is required to publish a report either instructing the land owner to dispose of the land, or justifying why it may be retained.

4.2 This Order is made under section 93(2)(a) of the Act. The Order amends Schedule 16 of the Act by adding the Greater London Authority, Transport for London and the British Transport Police as bodies whose land may be subject to the Part X process.

4.3 The provisions of the Order will take effect on 30<sup>th</sup> June 2011.

## **5. Territorial Extent and Application**

5.1 This instrument applies in respect of land situated in England.

## **6. European Convention on Human Rights**

6.1 The PROD process is confined to disposals of land by public sector bodies. A direction by the Secretary of State may only be made in respect of land held by such a body (see section 93 of the 1980 Act). The Secretary of State is therefore of the view that no issue of incompatibility with Article 1 of the First Protocol, or Article 6 of the Convention, could arise by the inclusion, by this Order, of additional public sector bodies within the scope of the process.

## **7. Policy background**

### *What is being done and why*

7.1 The Greater London Authority, Transport for London and the British Transport Police are being added to Schedule 16 to the 1980 Act in order to increase the number of bodies whose land may be subject to direction under the Part X (PROD) process.

7.2 By way of further background to the process, in recent years groups such as the Empty Homes Agency (see <http://www.emptyhomes.com/usefulresources/prods.html>) and Save Britain's Heritage (see <http://www.savebritainsheritage.org>) have brought to the attention of the public and Government the issue of underused and vacant public sector land; and the need for it to be brought back into beneficial use. The March 2011 Budget (para. 2.292) estimated that 40% of land suitable for development sits in public sector land banks.

7.3 The Government consider that the use of the PROD process is a significant element in addressing this issue.

7.4 To this end it has referred to PROD as becoming part of a Community Right to Reclaim Land, announced on 2 February 2011. This aims to develop the PROD process to help local people ensure that public sector and certain other bodies do not unnecessarily retain underused or vacant land or property, and get brownfield public sites back into use. There are two elements to be rolled out during 2011. Firstly; on-line data about publicly owned land and property ownership will be made available to help make it easier for citizens to see which public body owns what land. Secondly, the Public Request to Order Disposal (PROD) process will be reformed to make it better known, easier to use, wider in its application and more robust in its testing of evidence provided by parties.

## *Consolidation*

7.5 The Department will publish on its website a consolidated version of Schedule 16 to include the amendments introduced by this instrument.

## **8. Consultation outcome**

8.1 Sections 93 (4), (5) and (6) of the Act, require that those bodies proposed for inclusion in Schedule 16 should be consulted for a period of 42 days, and that the Secretary of State take account of any representations made by them prior to reaching a final decision on their inclusion.

8.2 Those bodies proposed for inclusion in Schedule 16 were consulted between 29 March and 10 May 2011. All the bodies consulted responded during the consultation period with each supporting their inclusion into Schedule 16. No matters were raised as part of the consultation such that any review of the proposed amendments to Schedule 16 was considered necessary.

## **9. Guidance**

9.1 It is not considered necessary to issue guidance in relation to this simple instrument. Information to promote the reformed PROD process generally and to guide those potentially interested in making use of it, or subject to it, will be provided on the Communities and Local Government website and by other means as appropriate.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is not considered to be of a level of significance such that an Impact Assessment becomes necessary.

10.3 An Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 The Community Right to Reclaim Land aims to increase accountability and to better enable citizens and others to shape and influence the areas in which they live. The mere presence of this Right, alone or in conjunction with other Government policy affecting public sector land, may have the desired effect, with landowners and communities working together to bring land or property back into beneficial use without involving the Secretary of State. Consequently success will not simply be a measure of how many times the PROD process is used or how many times the Secretary of State directs or recommends the disposal of land.

12.2 The impact of the amendments to Schedule 16 and the wider PROD reforms will be assessed as part of an internal review of the impact of the Community Right to Reclaim Land in due course.

**13. Contact**

**Kevin Bown** at the Department for Communities and Local Government Tel: 0303 444 4301 or email: [Kevin.Bown@communities.gsi.gov.uk](mailto:Kevin.Bown@communities.gsi.gov.uk) can answer any queries regarding the instrument.