

EXPLANATORY MEMORANDUM TO
THE SELF-BUILD AND CUSTOM HOUSEBUILDING (REGISTER)
REGULATIONS 2016

2016 No. 105

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 The Self-build and Custom Housebuilding Act 2015 (“the 2015 Act”) places duties on certain public authorities to keep a register of individuals and associations of individuals who are seeking to acquire a serviced plot of land in their area to bring forward self-build and custom housebuilding projects, and to have regard to those registers in carrying out their planning, housing, land disposal and regeneration functions.
- 2.2 This instrument makes provision under powers in the Act in relation to the definition of a “serviced plot of land” and registers kept under the Act.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 These Regulations are the first exercise of the powers in the 2015 Act.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Section 1 of the 2015 Act requires relevant authorities to keep and publicise a register of individuals and associations of individuals who are seeking to acquire a serviced plot of land in the authority’s area in order to build houses for those individuals to occupy as homes. The Schedule to the Act makes provision in relation to registers under section 1.
- 4.2 Section 5 of the 2015 Act defines certain terms. The term “serviced plot of land” is defined as a plot of land which satisfies such requirements about utilities and other matters as may be specified in regulations made under the 2015 Act.
- 4.3 This instrument specifies requirements that a plot of land must meet to be a “serviced plot of land” for the purposes of the 2015 Act, and makes provision in relation to registers. These include eligibility requirements for entry on a register, information

that applicants must provide and that a relevant authority must keep on their register, timescales for making entries on the register and notifying applicants, and the circumstances and procedure for removing an entry.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England and Wales.
- 5.2 The territorial application of this instrument is England only.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 There is strong evidence of demand for self-build and custom housebuilding in England. Latest figures from Ipsos Mori show 0.8 million people expect to take action to build their own home in the next 12 months.¹
- 7.2 The Government wants to increase the capacity and diversity of the housebuilding industry to build more high quality new homes faster and believes expanding the self-build and custom build sector will make an important contribution to this.
- 7.3 National planning policy asks local planning authorities to plan for the needs of people wishing to build their own homes.² In addition, planning guidance asks plan makers to compile a local list or register of people who want to build their own homes.³ While some local planning authorities are proactively assessing and planning for the needs of those who wish to self-build or custom build their own home, many are not.⁴
- 7.4 The duties set out in this instrument aim to increase transparency on the level and nature of demand for self-build and custom housebuilding in England. Establishing a register will make it easier for relevant authorities to identify demand for self-build and custom housebuilding in their local area – as already required by the National Planning Policy Framework.

8. Consultation outcome

- 8.1 Between October and December 2014 the previous Government undertook a public consultation on the principles of the Right to Build, which included the operation of the proposed registers. The key feedback in relation to the registers was for authorities required to keep a register to have flexibility in designing and operating

¹ Ipsos Mori Survey (2014), available at: <https://www.ipsos-mori.com/researchpublications/researcharchive/3347/One-in-seven-Britons-expect-to-look-into-building-their-own-home.aspx>

² Paragraph 50 of the National Planning Policy Framework (Department for Communities and Local Government), available at: <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

³ Planning Practice Guidance (Department for Communities and Local Government), available at: http://planningguidance.communities.gov.uk/blog/guidance/housing-and-economic-development-needs-assessments/methodology-assessing-housing-need/#paragraph_021

⁴ NaCSBA (2015) Survey of Self-build and Custom Build Activity in English Local Authorities, available at: <http://www.nacsba.org.uk/news/2015/07/10/many-councils-are-taking-action-to-boost-private-homebuilding/>

their register. This feedback was considered in the drafting of these Regulations. As a result the Regulations set out only the minimum detail that relevant authorities must include when designing their register. The consultation and consultation outcome can be viewed at: <https://www.gov.uk/government/consultations/right-to-build-supporting-custom-and-self-build>

- 8.2 Sessions to discuss a draft version of these Regulations were undertaken in November and December 2015 with a broad range of stakeholders operating in the public, private and third sectors. Stakeholders were largely content with the draft Regulations but sought clarification on the intention behind the definition of “serviced plot of land” and the role of planning guidance in providing advice on the registers. We have incorporated comments as appropriate in these Regulations.

9. Guidance

- 9.1 The Department for Communities and Local Government’s planning guidance, which is a web-based resource (available at: <http://planningguidance.planningportal.gov.uk/>), includes guidance on planning for self-build housing. The Department intends to update and expand the guidance to reflect the changes made by these Regulations. This updated guidance will be published in draft when these Regulations are laid to enable local planning authorities to prepare for their coming into force.
- 9.2 Section 3 of the 2015 Act requires a relevant authority to have regard to any guidance issued by the Secretary of State when exercising any function in relation to keeping its register or having regard to each register that relates to its area when carrying out functions relating to planning, housing, the disposal of land, and regeneration.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies. However, builders in particular are expected to benefit from an increased awareness of the level and nature of demand for self-build and custom housebuilding.
- 10.2 The impact on the public sector is that these Regulations will create a new burden. The 2015 Act places duties on relevant authorities to keep a register and to have regard to those registers in carrying out their planning, housing, land disposal and regeneration functions. These Regulations set out the process for considering applications and maintaining the register. Funding has been identified through the New Burdens Assessment process to support authorities who will incur additional burdens as a result of setting up and maintaining a register. This takes account of the capital and resource costs involved in establishing a register and the resource costs involved in maintaining the register.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 The Government will issue planning guidance that will encourage councils to set out headline data on demand for self-build and custom housebuilding in their area in the

Monitoring Reports that authorities are required to produce under section 35 of the Planning and Compulsory Purchase Act 2004.

- 12.2 These Regulations do not contain provision for review and section 28 of the Small Business, Enterprise and Employment Act 2015 (duty to review regulatory provisions in secondary legislation) does not apply.
- 12.3 The Government is committed to doubling the number of self-build and custom housebuilding projects by 2020. If evidence suggests that the sector is not doubling over the life of this Parliament, further measures will be considered as appropriate.

13. Contact

- 13.1 Sophie Corbett at the Department for Communities and Local Government (Tel: 0303 44 44616 or email: sophie.corbett@communities.gsi.gov.uk) can answer any queries regarding the instrument.