

SELF-BUILD AND CUSTOM HOUSEBUILDING BILL

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Self-build and Custom Housebuilding Bill as brought from the House of Commons on 12th January 2015. They have been prepared by the Department of Communities and Local Government, with the consent of Lord Best, the Peer in charge of the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.

2. The notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require any explanation or comment, none is given.

BACKGROUND AND SUMMARY

3. The purpose of the Bill is to allow individuals wishing to build their own home to register their interest in acquiring a suitable plot of land with the relevant authority. Specifically the Bill makes provision for:

- a) relevant authorities to maintain a register of people who are seeking to acquire a serviced plot in their area in order for them to build houses for them to occupy as homes; and
- b) certain authorities (broadly local authorities) to have regard to the demand for custom build housing as evidenced by the registers when exercising certain functions including those relating to planning and housing.

TERRITORIAL EXTENT AND APPLICATION

4. The Bill extends to England and Wales but only applies in relation to England.

COMMENTARY

Clause 1 Registers of persons seeking to acquire land to build a home

5. Clause 1 creates a duty on relevant authorities to maintain a register of individuals (either in their own right, or organised into groups) who have expressed an interest in

acquiring a serviced plot of land in order to build a house for such an individual to occupy as a home.

6. Clause 1 goes on to define what constitutes a “relevant authority” (which reflects the definition of local planning authority in section 37 of the Planning and Compulsory Purchase Act 2004) although the Secretary of State has a regulation-making power allowing the Secretary of State to provide for other public authorities to be considered as the relevant authority for specified areas. The regulation-making power can also be used to provide that any newly specified relevant authority can be designated as the authority for its area to the exclusion of any other authority, in order to avoid the existence of multiple registers for an area.

Schedule 1 Registers under section 1

7. The Secretary of State has a regulation-making power in order to specify how a relevant authority can comply with its duty to keep a register. The relevant provisions are set out in the Schedule to the Bill and cover the following aspects:

- a) Paragraph 2 (the registers) – The Secretary of State can provide in regulations details of how the registers should be kept including form, content, and how to amend the register (including renewal and possible removal of entries).
- b) Paragraph 3 (eligibility) – The Secretary of State can make provision in regulations about eligibility criteria which an individual or group of individuals must meet before they can be added to the register. These may include criteria about age and nationality, information about how an individual intends to occupy the home (eg as a primary residence), and additional criteria for those registering in groups as to the constitution and financial arrangements of any group.
- c) Paragraph 4 (applications to be registered) - The Secretary of State can make provision in regulations as to the information to be contained in both applications for individuals and groups of individuals to be entered onto the register, and for applications to renew entries on the register. Regulations may specify that the applicant has to provide information on items such as the size, location and price of the type of plot they may wish to acquire. If a group of individuals is applying to be entered onto the register, regulations may provide that information about the individuals comprising the group should be submitted.
- d) Paragraph 5 (right to review) – The Secretary of State can provide in regulations for a right of review to applicants who have been refused entry on to the register (either first entry or on renewal) or have been removed from the register, on the grounds of eligibility.

- e) Paragraph 6 (fees) – The Secretary of State can make provision in regulations as to the payment of fees to relevant authorities in connection with their duty to maintain a register. The regulations may specify that the Secretary of State can specify a fee payable, or that the relevant authorities can fix the level of fee payable to them.

Clause 2 Duty as regards registers

8. Clause 2 creates a duty on the authorities referred to in clause 2(2) to have regard to the registers when carrying out certain functions. These functions are specified in clause 2(4) as functions relating to planning, housing, the disposal of any land of the authority and regeneration.

9. The Secretary of State also has a regulation-making power allowing the Secretary of State to provide for other public authorities to be required to have regard to the registers and to be considered as the authorities for specified areas. This means that an authority so specified may not necessarily be required to have regard to the register for its entire geographic areas of competence.

Clause 3 Guidance

10. Clause 3(1) provides that a relevant authority must have regard to any guidance issued by the Secretary of State in connection with the operation of the registers as set out in clause 1 and in regulations made under the Schedule.

11. Clause 3(2) provides that an authority must have regard to any guidance issued by the Secretary of State in connection with its duty to have regard to the registers as set out in clause 2.

Clause 4 Regulations

12. Clause 4 sets out the parliamentary procedures by which certain sets of regulations must be made. Regulations concerning how a relevant authority may charge fees in connection with the registers (as set out in paragraph 6 of the Schedule), and regulations which make provision for other public authorities to be specified as a relevant authority for the purposes of the requirement to keep a register or as an authority that has regard to registers when carrying out certain functions (as set out in clauses 1 and 2), are subject to the affirmative procedure. All other regulation-making powers (other than the commencement power) are subject to the negative procedure.

Clause 5 Interpretation

13. Clause 5 sets out the definition of key terms used in the Bill. These include the definition of a “house” which covers any dwelling that is part of a building and a “serviced plot of land” which covers any plot of land that satisfies any requirements about utilities and other matter as specified by the Secretary of State.

COMMENCEMENT

14. Clause 6(2) and 6(3) of the Bill provides for commencement. Clause 6 comes into force on the day the Bill is passed. The remaining provisions of the Bill come into force on a day appointed by the Secretary of State by regulations.

IMPACT ASSESSMENT

15. The Department for Communities and Local Government's Better Regulation Unit have confirmed that no impact assessment is necessary in this case as the Bill will principally affect local authorities and not impose direct costs on business or the third sector.

PUBLIC EXPENDITURE AND PUBLIC SECTOR MANPOWER IMPLICATIONS

16. The establishment of a statutory register in each relevant authority is expected to impose a small new burden on local authorities. It is intended to ensure that the secondary legislation stemming from the Bill is proportionate and that a final new burdens assessment is completed for the regulations. The Department for Communities and Local Government's initial estimates suggest the registers could cost up to £5 million per annum, nationally. There are no tax implications.

COMPATIBILITY WITH EUROPEAN CONVENTION ON HUMAN RIGHTS

17. As this is a Private Member's Bill there is no requirement to make a statement under section 19(1)(a) of the Human Rights Act 1998 about the provisions of the Bill and the Convention rights.

18. The Department for Communities and Local Government have nevertheless considered whether the proposals in the Bill raise potential Convention issues and have concluded that the provisions of the Bill are compatible with the Convention rights.

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[HL Bill 78]*

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