

The Title Conditions (Scotland) Act 2003 (Conservation Bodies and Rural Housing Bodies) (Miscellaneous Amendment) Order 2023

Equality Impact Assessment Record

Equality Impact Assessment Record

Title of policy/ practice/ strategy/ legislation etc.	The Title Conditions (Scotland) Act 2003 (Conservation Bodies and Rural Housing Bodies) (Miscellaneous Amendment) Order 2023	
Minister	Minister for Victims and Community Safety	
Lead official	Sandra Jack	
Officials involved in the EQIA	name	team
	Michael Paparakis	Private Law Unit
Directorate: Division: Team	Justice: Civil & Legal System: Private Law Unit	
Is this new policy or revision to an existing policy?	This is a recurring Order. The frequency is dependent on a body/trust making an application to the Scottish Ministers.	

Screening

Policy Aim

The provisions of section 38 and 43 of the Title Conditions (Scotland) Act 2003 Act (“2003”) provides for applications from bodies who meet the criteria set down in the sections to be designated as a conservation or rural housing body. If the applicants meet the criteria, then an Order is drafted and presented to the Scottish Parliament.

The effect of designation of a conservation body allows the body to apply conservation burdens to land with conditions that preserve or protect for the benefit of the public, the architectural, historical or other special characteristics of any land such as a nature reserve or a historic building.

The effect of designation of a rural housing body permits the creation of rights of pre-emption (rural housing burdens) in favour of the rural housing body giving them the first call to buy back the

property when it is to be sold, allowing them to maintain the stock of affordable homes in Scotland.

This may help to achieve two of the Scottish Government's national outcomes which is that "we value and enjoy our built and natural environment and protect it and enhance it for future generations" and "we recognise that to be healthy and happy as a nation we must nurture and protect our local resources, environments and all who live in them. "

Who will it affect?

Conservation burdens can protect or preserve local areas of interest for the environment and bodies. This can impact on anyone. It generally, will benefit an area or community.

By designating bodies to be a rural housing body it will assist local communities where there is a need for affordable housing. The aim is to make houses available or plots of land for self-build projects. Housing at an affordable price will assist a wide range of age groups. The younger generation can afford to stay in the community or families returning to the community. The holiday home market can drive the prices of properties up in rural communities making them beyond the reach of the local people. So ultimately affecting the communities and the individuals/families wishing to remain or return to their community.

What might prevent the desired outcomes being achieved?

If the Order is passed by the Scottish Parliament then it is down to the prescribed bodies to follow through on the work they intend to undertake. Failure by any of these bodies would result in the outcomes not being delivered.

Stage 1: Framing

Results of framing exercise

A meeting was held with other members of the Private Law Unit to consider whether the Order impacted of the protected groups. We concluded it did not.

Extent/Level of EQIA required

Conservation burdens are conditions which preserve or protect for the benefit of the public, the architectural, historical or other special characteristics of any land. Therefore, we concluded that a low level of assessment was required.

A rural housing body sets down any criteria associated with a house or plot of land for sale. The rural housing burden permits the creation of rights of pre-emption in favour of the body giving them the first call to buy back the property when it is to be sold, allowing them to maintain the stock of affordable homes in Scotland. Therefore, we concluded that a low level of assessment was required.

Stage 2: Data and evidence gathering, involvement and consultation

Include here the results of your evidence gathering (including framing exercise), including qualitative and quantitative data and the source of that information, whether national statistics, surveys or consultations with relevant equality groups.

Characteristic¹	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
Age	N/A	N/A	N/A
Disability	N/A	N/A	N/A
Sex	N/A	N/A	N/A
Pregnancy and maternity	N/A	N/A	N/A
Gender reassignment	N/A	N/A	N/A
Sexual orientation	N/A	N/A	N/A
Race	N/A	N/A	N/A
Religion or belief	N/A	N/A	N/A
Marriage and civil partnership (the Scottish Government does not require assessment against this protected characteristic unless the policy or practice relates to work, for example HR policies and practices - refer to Definitions of Protected Characteristics document for details)	N/A	N/A	N/A

¹ Refer to Definitions of Protected Characteristics document for information on the characteristics

Stage 3: Assessing the impacts and identifying opportunities to promote equality

Having considered the data and evidence you have gathered, this section requires you to consider the potential impacts – negative and positive – that your policy might have on each of the protected characteristics. It is important to remember the duty is also a positive one – that we must explore whether the policy offers the opportunity to promote equality and/or foster good relations.

Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	The policy allows for Scottish Ministers to prescribe a body or organisation as a Conservation Body or Rural Housing Body. This enables these bodies to place burdens in title deeds and allowing them to enforce them if the need arises. It does not directly or indirectly address discrimination, harassment, or victimisation.
Advancing equality of opportunity			X	The policy does not make any direct or indirect impact of the advancing equality of opportunity.
Promoting good relations among and between different age groups			X	The policy does not directly or indirectly promote good relations within different age groups. However, making properties available for sale may impact on the younger generation looking to buy their first home to delivering opportunities as well as growing families

Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	The policy allows for Scottish Ministers to prescribe a body or organisation as a Conservation Body or Rural Housing Body. This enables these bodies to place burdens in title deeds and allowing them to enforce them if the need arises. It does not directly or indirectly address discrimination, harassment, or victimisation.
Advancing equality of opportunity			X	The policy does not make any direct or indirect impact of the advancing equality of opportunity.
Promoting good relations among and between disabled and non-disabled people			X	The policy does not directly or indirectly promote good relations within disabled and non-disabled people.

Do you think that the policy impacts on men and women in different ways?

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The policy allows for Scottish Ministers to prescribe a body or organisation as a Conservation Body or Rural Housing Body. This enables these bodies to place burdens in title deeds and allowing them to enforce them if the need arises. It does not directly or indirectly address discrimination.
Advancing equality of opportunity			X	The policy does not make any direct or indirect impact of the advancing equality of opportunity.
Promoting good relations between men and women			X	The policy does not make any direct or indirect impact in promoting good relations between men and women.

Do you think that the policy impacts on women because of pregnancy and maternity?

Pregnancy and Maternity	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The policy allows for Scottish Ministers to prescribe a body or organisation as a Conservation Body or Rural Housing Body. This enables these bodies to place burdens in title deeds and allowing them to enforce them if the need arises. It does not directly or indirectly address discrimination.
Advancing equality of opportunity			X	The policy does not make any direct or indirect impact of the advancing equality of opportunity.
Promoting good relations			X	The policy does not make any direct or indirect impact in promoting good relations.

Do you think your policy impacts on people proposing to undergo, undergoing, or who have undergone a process for the purpose of reassigning their sex? (NB: the Equality Act 2010 uses the term 'transsexual people' but 'trans people' is more commonly used)

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The policy allows for Scottish Ministers to prescribe a body or organisation as a Conservation Body or Rural Housing Body. This enables these bodies to place burdens in title deeds and allowing them to enforce them if the need arises. It does not directly or indirectly address discrimination.
Advancing equality of opportunity			X	The policy does not make any direct or indirect impact of the advancing equality of opportunity.
Promoting good relations			X	The policy does not directly or indirectly promote good relations for this aspect.

Do you think that the policy impacts on people because of their sexual orientation?

Sexual orientation	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The policy allows for Scottish Ministers to prescribe a body or organisation as a Conservation Body or Rural Housing Body. This enables these bodies to place burdens in title deeds and allowing them to enforce them if the need arises. It does not directly or indirectly address discrimination.
Advancing equality of opportunity			X	The policy does not make any direct or indirect impact of the advancing equality of opportunity.
Promoting good relations			X	The policy does not directly or indirectly promote good relations for this aspect.

Do you think the policy impacts on people on the grounds of their race?

Race	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The policy allows for Scottish Ministers to prescribe a body or organisation as a Conservation Body or Rural Housing Body. This enables these bodies to place burdens in title deeds and allowing them to enforce them if the need arises. It does not directly or indirectly address discrimination.
Advancing equality of opportunity			X	The policy does not make any direct or indirect impact of the advancing equality of opportunity.
Promoting good race relations			X	The policy does not make any direct or indirect impact of the promoting good race relations.

Do you think the policy impacts on people because of their religion or belief?

Religion or belief	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The policy allows for Scottish Ministers to prescribe a body or organisation as a Conservation Body or Rural Housing Body. This enables these bodies to place burdens in title deeds and allowing them to enforce them if the need arises. It does not directly or indirectly address discrimination.
Advancing equality of opportunity			X	The policy does not make any direct or indirect impact of the advancing equality of opportunity.
Promoting good relations			X	The policy does not make any direct or indirect impact of the promoting good race relations.

Do you think the policy impacts on people because of their marriage or civil partnership?

Marriage and Civil Partnership²	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The policy allows for Scottish Ministers to prescribe a body or organisation as a Conservation Body or Rural Housing Body. This enables these bodies to place burdens in title deeds and allowing them to enforce them if the need arises. It does not directly or indirectly address discrimination.

² In respect of this protected characteristic, a body subject to the Public Sector Equality Duty (which includes Scottish Government) only needs to comply with the first need of the duty (to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010) and only in relation to work. This is because the parts of the Act covering services and public functions, premises, education etc. do not apply to that protected characteristic. Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or practice relates to work, for example HR policies and practices.

Stage 4: Decision making and monitoring

Identifying and establishing any required mitigating action

Have positive or negative impacts been identified for any of the equality groups?	No.
Is the policy directly or indirectly discriminatory under the Equality Act 2010 ³ ?	No.
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	N/A
If not justified, what mitigating action will be undertaken?	N/A

Describing how Equality Impact analysis has shaped the policy making process

The EQIA process has confirmed that the Order has no impact on any of the protected characteristics.

Given that no positive or negative impacts have been identified, no direct changes have been made as a result of this EQIA. Section 38(1) and 43(5) of Title Conditions (Scotland) Act 2003 provides that Scottish Ministers can prescribe a body or organisation which makes an application to be prescribed as a conversation or rural housing body so long as it meets the criteria. However, the EQIA process has been helpful in considering the impact of this policy on equality groups.

There are no direct implications for finance as a result of this EQIA.

³ See EQIA – Setting the Scene for further information on the legislation.

Monitoring and Review

As no equality issues were identified no specific monitoring or evaluation will be undertaken.

Stage 5 - Authorisation of EQIA

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes No

- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:

- Eliminating unlawful discrimination, harassment, victimisation;
- Removing or minimising any barriers and/or disadvantages;
- Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life)
- Fostering good relations, tackling prejudice and promoting understanding.

Yes No

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes No Not applicable

Declaration

I am satisfied with the equality impact assessment that has been undertaken for The Title Conditions (Scotland) Act 2003 (Conservation Bodies and Rural Housing Bodies) (Miscellaneous Amendment) Order 2023 and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: Denise Swanson

Position: Interim Deputy Director

Authorisation date: 4 September 2023



© Crown copyright 2023



This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-83521-361-2 (web only)

Published by The Scottish Government, September 2023

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1353142 (09/23)

W W W . g o v . s c o t