

Equality Impact Assessment for the Title Conditions (Scotland) Act 2003 (Rural Housing Bodies) Amendment Order 2024

October 2024

**Equality Impact Assessment for the
Title Conditions (Scotland) Act 2003
(Rural Housing Bodies) Amendment
Order 2024**

Title of policy:

The Title Conditions (Scotland) Act 2003 (Rural Housing Bodies) Amendment Order 2024

Summary of aims and desired outcomes of Policy:

Section 43(5) of the Title Conditions (Scotland) Act 2003 (“the 2003 Act”) allows the Scottish Ministers to designate bodies, which meet the criteria set down in section 43(6), as rural housing bodies. If the applicant meets the criteria, then an Order is drafted and presented to the Scottish Parliament. The effect of designation as a rural housing body is that a right of pre-emption (known as a rural housing burden) in favour of the rural housing body can be created over rural land. This gives the body the first call to buy back the property in the event of a sale, thereby maintaining the stock of affordable homes in Scotland.

Directorate: Justice

Division: Civil Law and Legal System

Team: Private Law

Executive summary

Section 43(5) of the Title Conditions (Scotland) Act 2003 (“the 2003 Act”) allows the Scottish Ministers to designate bodies, which meet the criteria set down in section 43(6), as rural housing bodies. The effect of designation as a rural housing body is that a right of pre-emption (known as a rural housing burden) in favour of the rural housing body can be created over rural land. This gives the body the first call to buy back the property in the event of a sale, thereby maintaining the stock of affordable homes in Scotland.

The EQIA process has confirmed that the proposed Order has no impact on a protected characteristic and so no direct changes have been made to the policy as a result of this EQIA.

Background

An organisation can become a Rural Housing Body (RHB) if they make an application to Scottish Ministers, and they meet the criteria. The criteria (section 43(6) of the Title Conditions (Scotland) Act 2003) is that the organisation’s aim (or principal aim) is to provide housing or land for housing. Where an applicant meets the criteria, then an Order is drafted and presented to the Scottish Parliament.

The effect of becoming a RHB allows the body to place a rural housing burden (“burden”) which is a condition in the title deeds at the first sale of any property. The terms of the rural housing burden will be freely negotiated with the purchaser and could detail the terms and price at which the property could be bought back. The burden gives the RHB the first call to buy it back if the owner ever wishes to sell. If the RHB does buy the property back it may be at the discount percentage of the current market valuation and then be sold on at the same discount percentage. This ensures that the original discount made will endure in perpetuity – forever and provides the RHB the ability to control future sales.

Holiday and second homes market can drive the prices of properties up in rural communities making them beyond the reach of the local people, affecting communities and the individuals/families wishing to remain (or return) to their community. A RHB can assist local communities where there is a need for affordable housing. The aim of the policy is to make available houses or plots of land for self-build projects at an affordable price for a wide range of age groups and thereby maintaining the stock of affordable homes in rural Scotland.

The Scope of the EQIA

We have been unable to identify public statistical data that would usefully aid the assessment of the impact of the Order on protected characteristics.

Key Findings

The Order will impact individuals who may wish to buy property – a plot of land for self build or a house advertised by the rural housing body. The policy does not have a direct or indirect impact on advancing equality of opportunity. However, making properties available for sale at an affordable price may benefit the younger generation looking to buy their first home as well as growing families.

Recommendations and Conclusion

The EQIA process has confirmed that the proposed Order has no impact on a protected characteristic and so no direct changes have been made to the policy as a result of this EQIA.

If new information comes to light once the Order is in force then this will be assessed. However, this is not anticipated due to the nature of the Order.



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