

Final Business and Regulatory Impact Assessment

<p>Title of Proposal</p> <p>Designation of a Rural Housing Body under section 43(5) of the Title Conditions (Scotland) Act 2003</p>
<p>Purpose and intended effect</p> <ul style="list-style-type: none">• Background <p>Section 43 of the Title Conditions (Scotland) Act 2003 has provision for Scottish Ministers to designate bodies if they meet the set criteria under section 43(6) of the Act to become a Rural Housing Body.</p> <ul style="list-style-type: none">• Objective <p>To provide affordable housing for local residents in rural communities. Section 43 of the 2003 Act permits the creation of rights of pre-emption in favour of prescribed rural housing bodies. Such rights of pre-emption are known as “rural housing burdens”. A rural housing burden gives the body in whose favour it has been created the first opportunity to buy the property back when it is sold. The objective is to maintain a stock of affordable homes in rural areas.</p> <ul style="list-style-type: none">• Rationale for Government intervention <p>The application by West Harris Trust identifies the need for providing housing that is affordable for permanent residence, and secondly in keeping the housing in affordable tenure. As mentioned above section 43(1) of the Act permits the creation of rights of pre-emption known as “rural housing burdens”. The policy objective underpinning the legislation is to maintain the stock of affordable homes in rural areas. The Act provides at section 43(5) that Scottish Ministers may prescribe such a body as they see fit to be a rural housing body. This ensures that the applicant meets the set criteria. A body can only become a Rural Housing Body if it is designated by SSI.</p> <p>The designation of a rural housing body may help achieve one of Scotland’s national outcomes which is that “We value and enjoy our built and natural environment and protect it and enhance it for future generations.” It could also meet the national indicators “Improve access to suitable housing options for those in housing need” and “increase the number of new homes”.</p> <p>The proposal would provide an option for affordable housing to meet the need of the younger generation of Harris to stay on the Island as well as attract new families to the area. New residents would have a significant positive impact upon the social sustainability of the area and would provide new economic opportunities.</p>
<p>Consultation</p> <ul style="list-style-type: none">• Within Government <p>We have considered the application with the Rural Payments and Inspection</p>

Division (RPID) Estates Team, Housing Supply Division and Community Assets team of Food and Drink and Rural Communities. All parties were content with application by West Harris Trust to proceed.

- **Public consultation**

We have not carried out a written public consultation across Scotland given the limited regional impact of the proposed SSI.

- **Business**

5 businesses and the local council have been interviewed by phone answering set questions about the positive and negative impact which the designation of the West Harris Trust as a Rural Housing Body would have on the local community. The businesses interviewed were:-

- A café and art galley
- An estate which owns a lodge, about 50 acres of ground and some salmon fishing.
- Luxury cottage accommodation.
- Coach company
- Employer in Harris providing “back office” resources for an international company, employing 25 people.
- The Council.

Options

There are two options.

Option 1 is to do nothing.

- **Sectors and groups affected**

There would be no direct impact on the local community and businesses in West Harris if we decided not to approve the application for West Harris Trust to be designated a rural housing body.

- **Benefits**

By doing nothing then there would be no positive benefits to West Harris community.

- **Costs**

There would be no costs involved. Although by doing nothing then the community and businesses could potentially be missing out on additional income from new people or by retaining existing locals in the community.

Option 2 is to designate the West Harris Trust as a Rural Housing Body.

- **Sectors and groups affected**

This proposed SSI would designate West Harris Trust as a Rural Housing Body. The impact is therefore on West Harris and the local community and businesses in West Harris.

Benefits

The aim of the trust is to provide affordable housing to the rural community where such housing is in demand as there is not a sufficient supply. By providing affordable housing it will help to retain the younger generation to stay on the Island. At present young people leave the island to find affordable homes and to gain employment.

Retaining people in the area will help attract new business and boost the employment opportunities.

The proposal could make the Island more sustainable all year round instead of the summer season when most of the tourism takes place.

The Government has concluded that at this stage it is not possible to quantify the benefits which might accrue from designating the West Harris Trust. However, the Government intends to keep the policy on Rural Housing Bodies generally under review, to establish the benefits which accrue from the policy generally.

- **Costs**

There are no additional or direct costs to any business sector of the Island in designating the West Harris Trust as a Rural Housing Body. The West Harris Trust has not set aside any specific funds for the costs of implementing the Rural Housing Body designation. These costs will become part of the normal legal costs of granting title to the purchaser of a plot with the additional burdens attached. Any cost to the Trust will be more than covered by the revenue received from the land sale. The West Harris Trust account end December 2011 show unrestricted reserves of £27,000.

Scottish Firms Impact Test

Due to the location of the businesses the interviews were held by telephone or in two cases the questions were responded to be email. The questions were sent out to the businesses prior to the interview.

Hebrides Art , a café and art gallery – Shops and Services small business

Supportive of the proposal of West Harris Trust being designated to become a Rural Housing Burden.

Benefits lie in the fact that increasing the size of the permanent community brings more money to the local economy. This should increase the labour pool in the local economy making it easier for any business to recruit people. Considers that the West Harris Trust in trying to regenerate the area would attract other business to the area.

Could see no negative impact to the proposal.

Borve Lodge Estate – Luxury cottage accommodation- Tourism and sport 3 cottages and some salmon fishing.

Supportive of the proposal of West Harris Trust being designated to become a Rural Housing Burden.

This would help with affordable housing which would help the locals to stay on the island. It will also bring more work to the construction industry. If the properties attract new people to the island the island will develop and as a result could increase the demand for other business's opportunities such as non-tourist shops and a post office for all year round

Highlighted that if too many houses were built then this could impinge on the beauty of the area as tourism is the biggest business on the Island.

Blue Reef Cottages (Luxury cottage accommodation) - Tourism. 2 cottages Small business

Supportive of the proposal of West Harris Trust being designated to become a Rural Housing Body.

It will enable young local people to get on the housing ladder. Despite the popularity of Harris as a holiday destination there are very few young people remaining on the island. Employment and housing are issues. With more affordable housing more people will stay and it will become easier for people to move in. There are recruitment issues on the island.

Harris Coaches

Supportive of the proposal of West Harris Trust being designated to become a Rural Housing Burden.

Seen as a major benefit to the community especially if it will attract families back to West Harris as there is a definite decline at present. If there are suitable people available for employment locally it may encourage other businesses to invest in the area. It is very important to try and encourage young families back to Harris as without them there is no real future. At present continuity of available work and availability of suitable employees discourages business investment.

G S H Group Plc is a Management Services company (one of the largest private employers in Harris) - management Service employer in Harris employing 25 people, also located in Grampian, Highland And Islands, United Kingdom

Supportive of the proposal of West Harris Trust being designated to become a Rural Housing Burden.

It is a big benefit that the Trust is taking this forward as they understand the needs of the area. The proposal would boost the small housing builders' market on the island. The proposal could attract new businesses but there would need to be affordable housing for new employees and their possible families.

Comhairle nan Eilean Siar – Local Government

Supportive of the proposal of West Harris Trust being designated to become a Rural Housing Body.

This will be useful to have. Can help with the regeneration and could contribute to providing affordable housing to the community. Rural Burdens aren't an aim for Comhairle but they are supportive of them in the right circumstances. May see potential drawbacks for the community if burdens were applied on a blanket approach but that is not West Harris trust's intention. .

- **Competition Assessment**

Detail the results of your competition assessment*

Although we interviewed a diverse range of businesses the same themes came across.

The impact would be to boost the community in numbers and attract families to settle on the Island. This has a wider impact on all facilities and businesses on the Island.

To have more people available for employment locally may encourage other businesses to invest in the area. At the moment continuity of available work and availability of suitable employees discourages business investment.

The key benefits will lie in being able firstly to provide housing that is affordable for permanent residence, and secondly in keeping that housing in affordable tenure. It will also attract more people to come to the island if housing is more affordable. Providing affordable housing will enable young local people to get on the housing ladder and retain people on the island.

Competition assessment filter questions

Will the proposal directly limit the number or range of suppliers?

No. The policy will not restrict the number or range of suppliers. Plots of land will be made available and allocated to self-builders.

Will the proposal indirectly limit the number or range of suppliers?

No. But it may well be that the Trust or the individuals purchasing may use local companies.

Will the proposal limit the ability of suppliers to complete?

No. Again it will depend on who the trust and/or new homeowners want to appoint to construct. The current proposals do not state that there will be any restrictions on suppliers to complete.

Will the proposal reduce suppliers' incentives to compete vigorously?

No. It will be open to the businesses to compete within the criteria laid down by the Trust or new homeowners.

The building industry will benefit if the uptake to build affordable housing is taken up.

The policy itself does not place any restrictions on who may tender for the work or range of suppliers. This will be for the Rural Housing Body, West Harris Trust to decide or for the individual families. The remote location may rule out some firms/businesses but this is not a consequence of the policy.

There will be no limit to the range of suppliers e.g. it will not award exclusive rights to a supplier or create closed procurement.

- **Test run of business forms**

N/A. There are no new forms associated with this proposal.

Legal Aid Impact Test

The proposal has no impact on the legal aid budget. This has been confirmed by Denise Swanson of Access to Justice division.

Enforcement, sanctions and monitoring

The policy does not need enforcement or sanctions.

Monitoring will be at a low level, given the restricted impact of this SSI. The Carnegie Trust has recently carried out research on Rural Housing Burdens: <http://www.carnegieuktrust.org.uk/getattachment/66ebd0ba-7fec-4872-b97c-b25bcf200412/The-Effectiveness-of-Rural-Housing-Burdens.aspx> and <http://www.carnegieuktrust.org.uk/getattachment/8a4d9d3f-11ad-46f5-b294-58be4e93dae0/Rural-Housing-Burdens--A-Policy-Summary.aspx> Points made by the Carnegie Trust include:

- The use of RHBs has helped to grow the population of small, fragile, rural communities, such as Glenachulish in the West Highlands, improving their sustainability in the medium term.
- Most families who have purchased a property with a RHB are clear that this was the only way in which they could have afforded to buy their home.
- The RHB mechanism has enabled properties to be developed in attractive locations, which would not have been made available for housing development – or may not have received planning permission – without the protection that the RHB offers in terms of retaining the property within the local community.

The Government intends to follow up the research by the Carnegie Trust to consider further the impact of Rural Housing Burdens generally.

Implementation and delivery plan

An SSI will be drafted to add the West Harris Trust to the prescribed list of designated Rural Housing Bodies.

- **Post-implementation review**

As indicated above, the Carnegie Trust has recently undertaken a review of the effectiveness of Rural Housing Bodies. The Government will follow this work up. But we will also look to undertake a general review of the Title Conditions (Scotland) Act 2003 which will capture Rural Housing Bodies within the next 10 years. The Justice Committee announced on 31 January 2013 that it was undertaking an inquiry into the effectiveness of the provisions in the Title Conditions (Scotland) Act 2003.

Summary and recommendation

The application by West Harris Trust to be designated as a rural housing body should be approved and the SSI made.

The views of various businesses on the Island demonstrate support for the proposal.

The proposed housing may attract new people to the island which would increase the work force along with attracting new businesses.

West Harris Trust intends to promote and develop affordable housing in West Harris. The area is a popular tourist destination and as a result local people have been largely priced out of the housing market. In 2009, 41% of the area's housing stock was either owned by non-residents as second homes, or maintained as holiday accommodation for the self-catered tourism market.

In the short term the Trust, as landowner, hopes to mitigate these trends by development of a number of serviced sites to be sold at considerable discount to local families who would otherwise be unable to enter the housing market. Outline planning permission for this scheme is presently being sought from the local authority. The Trust would hope to use the powers available under section 43 of the Act to maintain the community interest in the land through the right of pre-emption and to guard against speculative purchase, development, and the sale of these heavily subsidised sites.

There may be issues around whether people can get the necessary finance to purchase the properties to build them. The current economic downturn may make lenders nervous in funding such burdened properties. However, this is a general issue across the housing industry.

- **Summary costs and benefits table**

As indicated above, at this stage the Government does not consider it possible to quantify the potential benefits of the proposed SSI. The costs of the SSI are negligible.

Indications from the Trust are as follows: - 14 sites for house units have been identified then the target of 20 in 10 years is achievable. 80 new residents will have a significant impact upon the social sustainability of the area and will provide new economic opportunities. Twenty families with an average household income of £25,000 would boost the local economy by £500,000/year before taking into account the multiplier effect of their spending. The construction of 20 homes at an average of £120,000 would mean spending of £2.4m in the local economy.

All of the above figures are conservative and no consideration is given to benefits beyond the 10 year horizon which will be cumulative, as housing burdens applied in this period will continue to have force and further burdens will be attached to further housing opportunities created by the Trust.

Declaration and publication

I have read the impact assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impacts of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

A handwritten signature in black ink, appearing to read 'R. Cunningham', written in a cursive style.

Date: 12 March 2013

**Roseanna Cunningham, Minister for Community Safety and
Legal Affairs**

*Scottish Government Contact point: Sandra Jack
ext 42025*