

POLICY NOTE

THE TITLE CONDITIONS (SCOTLAND) ACT 2003 (CONSERVATION BODIES) AMENDMENT ORDER 2016

SSI 2016/371

The powers to make this Order are conferred on the Scottish Ministers by section 38(4) of the Title Conditions (Scotland) Act 2003. It is subject to the negative parliamentary procedure.

Policy Objective

Section 38(4) of the Title Conditions (Scotland) Act 2003 grants Scottish Ministers the power to prescribe certain bodies to be conservation bodies. Bodies which are so prescribed may have conservation burdens created in their favour. Conservation burdens are conditions in the title deeds of property that ensure the preservation or protection of architectural, historical or other special characteristics of land for the benefit of the public. A conservation body is entitled to enforce conservation burdens created in its favour.

This Order makes an amendment to the Title Conditions (Scotland) Act 2003 (Conservation Bodies) Order 2003 by adding two bodies, Chapelton Community Interest Company and Tornagrain Conservation Trust to the list of prescribed conservation bodies. The power to make this Order may only be exercised where the object or function, or one of the principal objects or functions, of the body concerned preserve or protect, for the benefit of the public, the architectural, historical or other special characteristics of any land (in accordance with section 38(5)). The bodies dealt with by this Order comply with this requirement.

Chapelton Community Interest Company and Tornagrain Conservation Trust are both seeking prescription as a conservation body in order for them to create conservation burdens in order to preserve and protect the unique characteristics and qualities envisaged for the development of the proposed new towns.

Previous amending Orders prescribing conservation bodies were laid in 2003, 2004, 2006, 2007, 2008, 2012 and 2013.

Consultation

A consultation is not required as applicants either meet the terms of the legislation or they do not.

Impact Assessment

An equality impact assessment has not been undertaken on the basis that this policy does not have any impact on equality issues.

Financial effects

This Order is not expected to have any significant financial effects on Scottish Government, local government or on business. As there is no impact on business or the third sector, no Business and Regulatory Impact Assessment is required.

Civil Law and Legal System Division
November 2016