

Final Business and Regulatory Impact Assessment

Title of Proposal Prescribing a Rural Housing Body under section 43(5) of the Title Conditions (Scotland) Act 2003
Purpose and intended effect <ul style="list-style-type: none">• Background<p>Section 43 of the Title Conditions (Scotland) Act 2003 (the 2003 Act) has provision for the Scottish Ministers to prescribe bodies to become a Rural Housing Body (RHB) if they meet criteria under section 43 of the Act.</p>• Objective<p>To provide affordable housing for local residents. Section 43 of the 2003 Act permits the creation of rights of pre-emption in favour of prescribed RHBs. 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.</p>• Rationale for Government intervention<p>The application by Kilfinan Community Forest Company (Kilfinan CFC) identifies the need to provide housing that is affordable for permanent residence, and to keep the housing in affordable tenure.</p><p>A body can only become an RHB if it is prescribed by SSI. Prescribing an RHB 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 help to maximise the delivery of affordable housing within the Kilfinan Parish and Tighnabruaich areas of Argyll and Bute</p>
Consultation <ul style="list-style-type: none">• Within Government<p>We have considered the application with the Community Right to Buy Team within the National Recourses Division and the Industry Policy, Supply Strategy, Right to Buy Team within the More Homes Division. All parties were content with the application by Kilfinan CFC to proceed.</p>• Public Consultation<p>We did not carry out a written public consultation across Scotland given the limited impact of the SSI.</p>• Business<p>We approached six outside businesses in relation to this BRIA including the local</p>

authority. Two responses were received, one being the local authority and the other being an art gallery who agreed to be interviewed. However, the proprietor of the art gallery was unobtainable and therefore has not been interviewed.

A further four companies failed to respond to any correspondence sent to them.

The businesses contacted were:

Local Authority
Art Gallery
Restaurant
Local grocery store
A web designer
Hotel

Options

There are 2 options regarding Kilfinan CFC's application to become designated as a RHB.

Option 1 is to do nothing.

- **Sectors and groups affected**

There would be no direct impact on the local community and businesses in the Kilfinan Parish or the Tighnabruaich area of Argyll and Bute area if we decided not to approve the application for Kilfinan CFC to be designated as a RHB.

- **Benefits**

By doing nothing there would be no positive benefits within the Kilfinan Parish or the Tighnabruaich areas of Argyll and Bute.

- **Costs**

There would be no costs involved as no SSI would be required. However, doing nothing could have a negative impact on the local economy. Economic activity could be generated through the work carried out by Kilfinan CFC. In addition, any housing built could house people from the local community or people who wish to move permanently to the Kilfinan Parish area.

Option 2 is to designate Kilfinan CFC as a RHB.

- **Sectors and groups affected**

This proposed SSI would designate Kilfinan CFC as a RHB. The impact is therefore on Kilfinan Parish area and the communities and businesses within the Tighnabruaich area.

- **Benefits**

The aim of Kilfinan CFC is to provide affordable housing to the local community where such housing is in demand as there is not a sufficient supply.

- **Costs**

There would be the minimal cost of the SSI.

Scottish Firms Impact Test

It was agreed that we would conduct the interview with the local authority by telephone so as not to incur any travelling costs. Lists of questions were prepared and were sent out prior to the interview.

Argyll and Bute Council

- Argyll and Bute Council advised that the Tighnabruaich area is currently undergoing a lot of development including the relatively new Portavadie Marina which currently has 85 employees, most of which are based at the Marina. Therefore, at present Tighnabruaich is a large development opportunity for expanding, but with the lack of affordable housing.
- As there is a limited amount of affordable housing already in the Tighnabruaich area, and without knowing how Kilfinan CFC will allocate the new properties, it is difficult to say whether or not designating Kilfinan CFC as an RHB would be beneficial. As many of the employees of the Marina do not currently stay in affordable housing the Council would like to know how Kilfinan CFC will be allocating their properties.
- Despite the above point, Argyll and Bute Council feel that designating Kilfinan CFC is a good proposal and will give other options to people who wish to stay in the local area. Offering the affordable housing may also be by way of self-build option, which may lead to using local tradesmen.
- Tighnabruaich currently has a large amount of houses that are only used as holiday homes. If Kilfinan CFC were to receive RHB status and subsequently gain the right to pre-emption this will ensure that the houses Kilfinan CFC provide will remain as affordable housing for the local area for years to come.

In the light of the comments by the local authority on the allocation of houses, the Scottish Government asked Kilfinan CFC what criteria they be using to allocate houses. Kilfinan CFC replied by advising that their criteria would be based on housing need; local connection and community wellbeing.

• Competition Assessment

The Scottish Government has considered the impact of the proposal on competition and does not consider that there would be an adverse impact. We have two reasons for taking that view. First of all, it seems unlikely that work carried out by RHBs would have an adverse impact on the house-building or other industries, given that work by RHBs is relatively small-scale. Secondly, as indicated above, there was no significant interest from companies in the Tighnabruaich area when we approached them to be interviewed for this BRIA. This lack of interest suggests that there were no major concerns about the proposal.

• 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 either directly or

Indirectly and will not impact on their ability to compete. It will be for Kilfinan CFC and individual homeowners to decide which suppliers to use.

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

No.

Will the proposal limit the ability of suppliers to compete?

No.

Will the proposal reduce suppliers' incentive to compete vigorously?

No.

• Test run of business forms

There are no new forms associated with this proposal.

Legal Aid Impact Test

The proposal has no impact on the legal aid budget.

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. However, the Scottish Government is just about to start an exercise to review all current RHBs with the view to establishing:-

1. if the body is still in existence;
2. whether it has retained the same name since first being prescribed; and
3. whether they have created any rural housing burdens.

The Carnegie UK Trust have carried out research on rural housing burdens:
<http://www.carnegeuktrust.org.uk/publications/the-effectiveness-of-rural-housing-burdens-a-policy-summary/>

Implementation and delivery plan

An SSI will be drafted to add Kilfinan CFC to the list of RHBs

• Post-implementation review

As indicated above, the Scottish Government is just about to start an exercise to review all current RHBs.

Summary and recommendation

The application by Kilfinan CFC to be designated as a RHB should be approved and the SSI made.

The proposed housing may attract new people to the Kilfinan Parish, within the Tighnabruaich area of Argyll and Bute, which may also increase the workforce along with attracting new businesses. Kilfinan CFC aims to build five properties in their first phase as

well as offering housing plots on a self-build basis. As part of their constitution, their aim is to operate a community forest for the benefit of the community and offer housing plots on a self-build basis and on a development basis utilising the timber from the forest where possible.

- **Summary costs and benefits table**

The costs of the SSI are negligible.

The benefit is the potential to increase the stock of affordable housing in the local area.

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:

Date:

Annabelle Ewing MSP, Minister for Community Safety and Legal Affairs

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