

## **POLICY NOTE**

### **THE TITLE CONDITIONS (SCOTLAND) ACT 2003 (RURAL HOUSING BODIES) AMENDMENT ORDER 2017**

#### **SSI 2017/7**

The power to make this Order is conferred by section 43(5) of the Title Conditions (Scotland) Act 2003 (“the 2003 Act”). The instrument is subject to the negative procedure.

#### **Policy Objective**

Section 43(5) of the 2003 Act provides that Scottish Ministers may prescribe such body as they think fit to be a rural housing body. Section 43(1) of the 2003 Act allows for the creation of a real burden over rural land which comprises a right of pre-emption in favour of a rural housing body. This is known as a “rural housing burden”. It means that when such land is being sold, the rural housing body has the right to purchase or re-purchase the land, as the case may be. In essence, it enables the rural housing body to control future sales. Ministers also have the power, under section 43(8) of the 2003 Act, to determine that a body shall cease to be a rural housing body.

The right to repurchase may only be used over rural land. Rural land means land other than excluded land. Excluded land has the same meaning as in Part 2 of the Land Reform (Scotland) Act 2003, which now following amendments made by the Community Empowerment (Scotland) Act 2015 means land consisting of a separate tenement (i.e. an interest in land) which is owned separately from the land in respect of which it is exigible. This definition is subject to exceptions for land consisting of salmon fishings and certain mineral rights.

This Order amends schedule 1 of the Title Conditions (Scotland) Act 2003 (Rural Housing Bodies) Order 2004 by adding one body, Kilfinan Community Forest Company, as a prescribed rural housing body.

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 is to provide housing or land for housing (section 43(6) of the 2003 Act). Kilfinan Community Forest Company complies with this requirement.

Previous Orders designating rural housing bodies were made in 2004, 2006, 2007, 2008, 2013 and 2014. **Annex A** provides a current list of all prescribed rural housing bodies to date.

#### **Consultation**

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

We are currently undergoing an exercise in which we have contacted all rural housing bodies and conservation bodies, prescribed under sections 43(5) and 38(4) of the 2003 Act respectively, asking them among other things, if they wish to remain prescribed as a rural

housing or conservation body. We have had a number of responses to date, but still have quite a few responses outstanding. We consider that once we have all relevant responses and have considered them, this would be the ideal time to prepare SSIs consolidating the list of rural housing and conservation bodies.

### **Impact Assessments**

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

### **Financial effects**

A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. With the limited information received from the BRIA process, we conclude that the impact of this Order on existing businesses in the area is generally positive. The Order enables a further rural housing body to provide affordable housing for current and future communities. This is likely to contribute to sustaining existing businesses and may attract new businesses.

Civil Law and Legal System Division  
January 2017

Albyn Housing Society Limited	Lochaber Housing Association Limited
Argyll Community Housing Association	Muirneag Housing Association Limited
Barra and Vatersay Housing Association Limited	Mull and Iona Community Trust
Berneray Housing Association Limited	North West Mull Community Woodland Company Limited
Buidheann Taigheadais na Meadhanan Limited	Orkney Islands Council
Buidheann Tigheadas Loch Aillse Agus An Eilein Sgitheanaich Limited	Pentland Housing Association Limited
Cairn Housing Association Limited	Rural Stirling Housing Association Limited
Colonsay Community Development Company	Taighean Ceann a Tuath na' Hearadh Limited
Comhairle nan Eilean Siar	The Highland Housing Alliance
Community Self-Build Scotland Limited	The Highlands Small Communities' Housing Trust
Craignish Community Company Limited	The Isle of Eigg Heritage Trust
Down to Earth Solutions Community Interest Company	The Isle of Gigha Heritage Trust
Dumfries and Galloway Small Communities Housing Trust	The North Harris Trust
Dunbritton Housing Association Limited	Tighean Innse Gall Limited
Ekopia Resource Exchange Limited	West Harris Trust
Fyne Homes Limited	West Highland Housing Association Limited
Fyne Initiatives Limited	West Highland Rural Solutions Limited
HIFAR Limited	Yuill Community Trust C.I.C.
Isle of Jura Development Trust	