POLICY NOTE

THE TITLE CONDITIONS (SCOTLAND) ACT 2003 (RURAL HOUSING BODIES) AMENDMENT ORDER 2019

SSI 2019/172

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.

Purpose of the instrument. To prescribe Arran Development Trust as a Rural Housing Body. This will allow the Trust to place a rural housing burden in their favour over land for housing in order to maintain property at an affordable price.

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(6) of the Act provides that the power conferred by subsection (5) may be exercised in relation to a body only if the object, or function, of the body (or, as the case may be one of its principal objects or functions) is to provide housing or land for housing.

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. The imposition of such a burden means that when such land is being sold, the rural housing body has the right to purchase it, or re-purchase it, 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, following amendments made by the Community Empowerment (Scotland) Act 2015, now means "land consisting of a separate tenement (i.e. 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 the Title Conditions (Scotland) Act 2003 (Rural Housing Bodies) Order 2004 (S.S.I. 2004/477) by adding one body, Arran Development Trust, to the schedule of prescribed rural housing bodies.

Arran Development Trust complies with the requirements of section 43(6) of the 2003 Act.

Previous amending Orders designating rural housing bodies were made in 2004, 2006, 2007, 2008, 2013, 2014 and 2017. **Annex A** provides a list of all currently prescribed rural housing bodies to date.

The Scottish Government is continuing with an exercise aimed at consolidating the list of rural housing bodies. It has attempted to contact all rural housing bodies and conservation

bodies (prescribed under section 38 of the 2003 Act) and has asked them, among other things, if they wish to remain prescribed as a rural housing or conservation body. A number of responses have been received and further letters have been issued although there are some outstanding responses. The Scottish Government is now considering the responses received and also the way forward where no response has been received.

Consultation

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

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. The impact of this policy on business is that overall this is a positive impact on existing businesses in the area. By providing affordable housing this will work towards retaining local people. It may also support the attraction and retention of suitably qualified essential workers on the island to support business growth. This will contribute to sustaining existing businesses and possibly have the potential to attract new businesses.

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ANNEX A: LIST OF PRESCRIBED RURAL HOUSING BODIES

Albyn Housing Society Limited	Kilfinan Community Forest Company
Argyll Community Housing Association	Lochaber Housing Association Limited
Barra and Vatersay Housing Association Limited	Muirneag Housing Association Limited
Berneray Housing Association Limited	Mull and Iona Community Trust
Buidheann Taigheadais na Meadhanan Limited	North West Mull Community Woodland Company Limited
Buidheann Tigheadas Loch Aillse Agus An Eilein Sgitheanaich Limited	Orkney Islands Council
Cairn Housing Association Limited	Pentland Housing Association Limited
Colonsay Community Development Company	Rural Stirling Housing Association Limited
Comhairle nan Eilean Siar	Taighean Ceann a Tuath na'Hearadh Limited
Community Self-Build Scotland Limited	The Highland Housing Alliance
Craignish Community Company Limited	The Highlands Small Communities' Housing Trust
Dormont Passive Homes (Scotland) Ltd	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	

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