POLICY NOTE

THE TITLE CONDITIONS (SCOTLAND) ACT 2003 (RURAL HOUSING BODIES) AMENDMENT ORDER 2024

SSI 2024/273

The above instrument was made in exercise of the power conferred by section 43(5) of the Title Conditions (Scotland) Act 2003 ("the 2003 Act"). The instrument is subject to negative procedure.

Summary Box

Insert one or two sentences to explain what the purpose of the instrument is.

To prescribe two bodies as Rural Housing Bodies: Shapinsay Development Trust and Tayvallich Initiative Ltd.

Policy Objectives

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 policy objective underpinning the legislation is to maintain the stock of affordable homes in rural areas.

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 two bodies, Shapinsay Development Trust and Tayvallich Initiative Ltd, to the schedule of prescribed rural housing bodies.

Shapinsay Development Trust and Tayvallich Initiative Ltd both comply 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, 2017, 2019 and 2023. The attached Annex provides a list of all currently prescribed rural housing bodies to date.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, the Title Conditions (Scotland) Act 2003 (Rural Housing Bodies) Amendment Order 2024 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

No formal consultation was required to be carried out in relation to this Order. Applicants either meet the terms of the legislation or they do not.

Impact Assessments

An Equality Impact Assessment (EQIA), Child Rights and Wellbeing Impact Assessment (CRWIA) and Business and Regulatory Impact Assessment (BRIA) have been completed and are attached. No equality issues have been identified and the impact on children's rights and wellbeing has been assessed as neutral. The impact on business is set out below.

Financial Effects

Overall, this policy will have a positive impact on existing businesses in the area. By providing affordable housing, this will work towards retaining local people. It may also attract new people to boost the community as a whole. This may support business growth and will contribute to sustaining existing businesses and possibly have the potential to attract new businesses.

Scottish Government
Justice Directorate

October 2024

ANNEX: LIST OF PRESCRIBED RURAL HOUSING BODIES

Albyn Housing Society Limited	Isle of Jura Development Trust
Argyll & Bute Council	Kilfinan Community Forest Company
Argyll Community Housing Association	Lochaber Housing Association Limited
Arran Development Trust	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
Dormont Passive Homes (Scotland) Ltd	The Isle of Gigha Heritage Trust
Down to Earth Solutions Community Interest Company	The North Harris Trust
Dumfries and Galloway Small Communities Housing Trust	Tighean Innse Gall Limited
Dunbritton Housing Association Limited	Urras Oighreachd Ghabhsainn
Ekopia Resource Exchange Limited	West Harris Trust
Fyne Homes Limited	West Highland Housing Association Limited
Fyne Initiatives Limited	West Highland Rural Solutions Limited
Hebridean Housing Partnership Limited	Yuill Community Trust C.I.C.
HIFAR Limited	

Civil Law and Legal System Division
October 2024