

# **The Title Conditions (Scotland) Act 2003 (Conservation Bodies and Rural Housing Bodies) (Miscellaneous Amendment) Order 2023**

**Final Business and Regulatory Impact  
Assessment**

## **Final Business and Regulatory Impact Assessment**

**Title of Proposal:** The Title Conditions (Scotland) Act 2003 (Conservation Bodies and Rural Housing Bodies) (Miscellaneous Amendment) Order 2023

### **Purpose and intended effect**

- Background

Section 43 of the Title Conditions (Scotland) Act 2003 (“the 2003 Act”) makes provision for the Scottish Ministers to prescribe a body to become a Rural Housing Body (RHB) if it meets the criteria under section 43 of the Act.

- Objective

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.

- Rationale for Government intervention

The applications by Urras Oighreachd Ghabhasainn (Galson Estate Trust), Argyll and Bute Council and the Hebridean Housing Partnership Limited all identify the need to provide housing that is affordable for permanent residence, and to keep the housing in affordable tenure.

A body can only become an RHB if it is prescribed by SSI. Prescribing an RHB may help to achieve one of the Scottish Government’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 help to meet the national indicators to “improve access to suitable housing options for those in housing need” and “increase the number of new homes.”

#### **Argyll and Bute Council**

The proposal would aid the Council’s plans as set down in their Rural Growth Deal which focuses on Mull and Islay to provide housing to be built initially on Islay for sale for use as principal homes. This is a pilot project and may be replicated elsewhere within the local authority area if successful and considered appropriate.

#### **Hebridean Housing Partnership Limited**

The proposal would allow for the Partnership who are a registered social landlord and a key delivery partner of the local authority’s affordable housing programme to provide houses which are no longer suitable for social rent for sale.

## Urras Oighreachd Ghabhasainn

The proposal would help to maximise the delivery of affordable housing within the Galson Estate which is a community owned crofting estate on the Isle of Lewis, purchased by the community in January 2007.

### **Consultation**

- Within Government

We have considered the application with the Housing Markets: Planning, Home Ownership and Taxation and Affordable Housing Supply Programme both within the More Homes Division and the Community Land Team in the Rural and Islands Policy Reform Division. All parties were content for the application by Argyll and Bute Council, Hebridean Housing Partnership Limited and Urras Oighreachd Ghabhasainn to proceed.

- Public Consultation

We did not carry out a written public consultation across Scotland given the limited impact of the SSI to each specific area.

- Business

#### Argyll and Bute Council

We have interviewed three businesses in the area who have been willing to participate in the BRIA process.

Isle of Mull Hotel and Spa  
Tobermory Harbour Association  
Kilchoman Distillery, Islay

Interviews were held by Teams. Other businesses had been approached but had not responded within the timescale.

### **Options**

There are 2 options regarding Argyll and Bute Council application to become designated as a RHB.

Option 1 is to do nothing.

- Sectors and groups affected

There would be no initial direct impact on the local community and businesses in the area of Mull and Islay if we decided not to approve the application for the Council to be designated as a RHB. However, the issues of not increasing the housing market

with affordable housing may impact on the recruitment of staff. This as a result could be a detriment of the businesses.

- Benefits - Option 1

By doing nothing, no positive benefits would arise. Current issues would remain and could result in an impact on businesses.

- Costs – Option 1

There would be no costs involved as no SSI would be required. However, doing nothing could have a negative impact on the local economy if businesses continue to struggle in recruiting staff for their business they may cease to trade or reduce services. However, on the small scale of houses to be built this may not initially be significant.

Option 2 is to designate Argyll and Bute Council as an RHB.

- Sectors and groups affected

This proposed SSI would designate Argyll and Bute Council as an RHB. The related impact would therefore be felt in the area – Mull and Islay initially. Businesses may benefit with more individuals available for employment. Construction businesses through to local trade people may be involved in the building of properties. In addition, any housing built could house people from the local community or people who wish to move permanently to the area.

- Benefits – option 2

The aim of the Council is to provide affordable housing to the local community where such housing is in demand as there is not at present a sufficient supply. This will enable homeownership at an affordable price.

- Costs – option 2

No costs apart from the minimal cost of the SSI.

#### Non-regulatory options

This is not applicable due to the process to become a Rural Housing Body to place rural housing burdens in title deeds can only be achieved through regulations. Any non-regulatory route to try to achieve the same outcome of placing burdens in title deeds would need legal advice to explore the options to see if this achievable.

## Hebridean Housing Partnership Limited

Two businesses had been approached to participate in the BRIA process but had not responded within the timescale. We have however, interviewed the local authority, Comhairle nan Eilean Siar (“Western Isles Council”).

There are 2 options regarding the Hebridean Housing Partnership Limited application to become designated as a RHB.

Option 1 is to do nothing.

- Sectors and groups affected

There would be no initial direct impact on the local community and businesses in the area if we decided not to approve the application for the Partnership to be designated as a RHB. However, the issues of not increasing the housing market with affordable housing may impact on the recruitment of staff. This as a result could be a detriment of the businesses.

- Benefits - Option 1

By doing nothing, no positive benefits would arise. Current issues would remain and could result in an impact on businesses.

- Costs – Option 1

There would be no costs involved as no SSI would be required. However, doing nothing could have a negative impact on the local economy if businesses continue to struggle in recruiting staff for their business they may cease to trade or reduce services.

Option 2 is to designate the Hebridean Housing Partnership Limited as an RHB.

- Sectors and groups affected

This proposed SSI would designate Hebridean Housing Partnership Limited as an RHB. Businesses may benefit with more individuals available for employment. Providing ex-rental properties for sale may involve construction businesses through to local trade people. In addition, releasing these properties for sale which could provide homes for the local community or people who wish to move permanently to the area.

- Benefits – option 2

The aim of the Partnership is to provide affordable housing to the local community where such housing is in demand as there is not at present a sufficient supply. It will enable homeownership at an affordable price.

- Costs – option 2

No costs apart from the minimal cost of the SSI.

Non-regulatory options

This is not applicable due to the process to become a Rural Housing Body to place rural housing burdens in title deeds can only be achieved through regulations. Any non-regulatory route to try to achieve the same outcome of placing burdens in title deeds would need legal advice to explore the options to see if this achievable.

Urras Oighreachd Ghabhasainn

We have interviewed four businesses in the area who have been willing to participate in the BRIA process. The local authority, Comhairle nan Eilean Siar (“Western Isles Council”) has also been interviewed.

Community Hall - Clan Macquarrie Community Centre  
Sports Centre - Sporsnis  
Museum & Café - Comunn Eachdraidh Nis  
Local grocery store - Cross Stores

Interviews were held by Teams or telephone calls due to the location. The type of businesses interviewed were all within the North of the Isle of Lewis

## **Options**

There are two options regarding Urras Oighreachd Ghabhasainn application to become designated as a RHB.

Option 1 is to do nothing.

- Sectors and groups affected

There would be no initial direct impact on the local community and businesses in the Urras Oighreachd Ghabhasainn area of North Lewis if we decided not to approve the application for the Trust to be designated as a RHB. However, the issues of not increasing the housing market with affordable housing may impact on the recruitment of staff. This as a result could result a detriment of the businesses.

- Benefits - Option 1

By doing nothing, no positive benefits would arise. Current issues would remain.

- Costs – Option 1

There would be no costs involved as no SSI would be required. However, doing nothing could have a negative impact on the local economy if businesses continue to struggle in recruiting staff for their business they may cease to trade or reduce

services. However, on the small scale of houses to be built this may not initially be significant.

Option 2 is to designate Urras Oighreachd Ghabhasainn as an RHB.

- Sectors and groups affected

This proposed SSI would designate Urras Oighreachd Ghabhasainn as an RHB. The related impact would therefore be felt in the area as well as the Island as a whole. Businesses may benefit with more individuals available for employment. Construction businesses through to local trade people may be involved in the building of properties. In addition, any housing built could house people from the local community or people who wish to move permanently to the the Isle of Lewis.

- Benefits – option 2

The aim of the Trust is to provide affordable housing to the local community where such housing is in demand as there is not at present a sufficient supply. This would enable homeownership at an affordable price.

- Costs – option 2

No costs apart from the minimal cost of the SSI.

Non-regulatory options

This is not applicable due to the process to become a Rural Housing Body to place rural housing burdens in title deeds can only be achieved through regulations. Any non-regulatory route to try to achieve the same outcome of placing burdens in title deeds would need legal advice to explore the options to see if this achievable.

The following questions and answers cover Argyll and Bute Council, Hebridean Housing Partnership Limited and Urras Oighreachd Ghabhasainn

### **Regulatory and EU Alignment Impacts**

N/A

### **Intra-UK Trade**

No

### **International Trade**

No

## **EU Alignment**

No

## **Scottish Firms Impact Test**

Argyll and Bute Council

All businesses interviewed were supportive of the Council's plans to provide houses for an affordable market. It was recognised that affordable housing was desperately needed to support the community in being able to achieve home ownership.

Sufficient infrastructures would be required if by providing affordable homes the population increases. The impact would have a knock on effect across the community. It was also highlighted that the properties needed to meet the needs of the community for example not building only four bedroom homes where smaller homes were in demand.

It was identified that a combination of factors was required for the ongoing future of retaining residents to the area but that the Council obtaining Rural Housing Burden status is a step forward and a positive one.

It was highlighted that it was hoped that the Council's work on providing new homes for sale did not detract them from continuing to supplying social housing.

Hebridean Housing Partnership Limited

Comhairle nan Eilean Siar ("Western Isles Council") were interviewed. Unfortunately, no businesses that were contacted responded within the timescale to take part in the BRIA interview process.

The Partnership are a key delivery partner of the council and the council confirmed that they work closely with them.

They are aware of the plans of the Partnership to bring properties which had been available to rent which were now lying empty to make them available for sale.

Although, only a few properties the impact will be felt across the community.

Urras Oighreachd Ghabhasainn (UOG)

Comhairle nan Eilean Siar ("Western Isles Council") were interviewed.

The council advised that they are fully aware of the housing plans that the Trust has planned and the option to have a small amount of homes available at a discounted rate.

On the benefits of being prescribed as a RHB, the council acknowledge that Urras Oighreachd Ghabhasainn (UOG) plan are overall ambitious which UOG also



acknowledge this fact. The council consider that UOG were well placed to take forward the project in planned phases. The UOG have experience of taking forward projects and the council raised no concerns and were fully supportive of their plans.

The general consensus from the four businesses interviewed was that UOG being prescribed by Scottish Ministers as a rural housing body was that this would be a positive move. The Trust aim to provide a small number of plots for self-build opportunities. The community needs more people to come to the area to help businesses recruit staff which would help boost their own businesses.

It was mentioned that it was hoped that the homes for sale would be accessible for all and that it was a fair process.

All respondents said that there was a need to encourage new people to the area as well as attracting families or individuals who may have left the Island for further education or to seek employment. Homes made available for sale at affordable prices would be highly attractive.

It would also boost existing businesses play an important role in the recruitment of staff. They did not consider there were any drawbacks.

### **Competition Assessment**

Argyll and Bute Council, Hebridean Housing Partnership Limited and Urras Oighreachd Ghabhasainn

The Scottish Government has considered the impact of the proposal on competition and does not consider that there would be an adverse impact on the construction or small trades people as the work carried out by the RHBs is relatively small-scale.

- Competition assessment filter questions

Will the proposal directly or indirectly 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 the Argyll and Bute Council, Hebridean Housing Partnership Limited and Urras Oighreachd Ghabhasainn to decide which suppliers to use following any due processes, where applicable.

Will the proposal limit the ability of suppliers to compete?

No. Again, it will depend on what processes Argyll and Bute Council, Hebridean Housing Partnership Limited and Urras Oighreachd Ghabhasainn have in place to appoint suppliers, where applicable. The current proposals by all three applicants do not state that there will be any restrictions on suppliers to compete.

Will the proposal reduce suppliers' incentive to compete vigorously?

No. The policy itself does not place any restrictions on who may tender for the work or range of suppliers. The location/design of the houses may rule out some firms/businesses, but this is not a consequence of the policy.

Will the proposal limit the choices and information available to consumers?

No.

### **Consumer Assessment**

Argyll and Bute Council, Hebridean Housing Partnership Limited and Urras  
Oighreachd Ghabhasainn

Does the policy affect the quality, availability or price of any goods or services in a market?

Properties or plots will be marketed at an affordable rate in the backdrop of a highly competitive market which makes home ownership not affordable. The rural housing burden in perpetuity allows the control of keeping the market price at an affordable rate. This option will not be attractive to all consumers.

Prior to purchasing a house all potential purchasers should be made aware of the conditions attached to the sale. Conditions may vary from one property to another, however, one condition which will be a constant, is the rural housing burden placed in the deeds in perpetuity.

Does the policy affect the essential services market, such as energy or water?

No, the policy is not relevant to these services.

Does the policy involve storage or increased use of consumer data?

No. Designating a body to be a rural housing body will not create an increase of consumer data.

Does the policy increase opportunities for unscrupulous suppliers to target consumers?

No. This is very small market impacting in small communities who will be aware of the named rural housing body that will market the properties or land for sale through their own website.

Does the policy impact the information available to consumers on either goods or services, or their rights in relation to these?

No. As above information on any sales of land or properties will be made available by the rural housing body directly.

Does the policy affect routes for consumers to seek advice or raise complaints on consumer issues?

No. Any issues will be raised through the usual channels.

Designating these three applicants as Rural Housing Bodies will allow them to place a rural housing burden in perpetuity within the title conditions of the deeds of a property to ensure that they get first call and control of the affordability of the property.

Any potential buyers must be told of a rural housing burden before purchase so that they are fully aware of the conditions attached to the property. This will be treated like any other title condition that a property may have and should be explained to them by their solicitor.

### **Test run of business forms**

Argyll and Bute Council, Hebridean Housing Partnership Limited and Urras Oighreachd Ghabhasainn

There are no new forms associated with this proposal.

### **Digital Impact Test**

Argyll and Bute Council, Hebridean Housing Partnership Limited and Urras Oighreachd Ghabhasainn

These Regulations are prescribing a body who will then have the ability to place a burden in the title deeds of a property in perpetuity. There is no direct digital impact. Any impact will be if the home buying process becomes a digital platform this would include Registers of Scotland and solicitors. Some of the transactions are already digitalised.

### **Legal Aid Impact Test**

Argyll and Bute Council, Hebridean Housing Partnership Limited and Urras Oighreachd Ghabhasainn

The proposal has no impact on the legal aid budget.

This policy does not increase the risk of a home purchaser or seller raising a court action and therefore seeking legal assistance. Property transactions through rural housing bodies are a very small percentage of the overall market.

### **Enforcement, sanctions and monitoring**

Argyll and Bute Council, Hebridean Housing Partnership Limited and Urras Oighreachd Ghabhasainn

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 currently undertaking an exercise to review all current RHBs to establish:-

1. which RHBs are still in existence.
2. whether they have retained the same name since first being prescribed; and
3. whether they have created any rural housing burdens.

This will feed into a wider project of consolidating the list of RHBs in a new SSI.

The Carnegie UK Trust carried out research on rural housing burdens although this is now 12 years old: <http://www.carnegieuktrust.org.uk/publications/the-effectiveness-of-rural-housing-burdens-a-policy-summary/>

### **Implementation and Delivery plan**

Argyll and Bute Council, Hebridean Housing Partnership Limited and Urras Oighreachd Ghabhasainn

An SSI has been prepared to add Argyll and Bute Council, Hebridean Housing Partnership Limited and Urras Oighreachd Ghabhasainn to the list of prescribed RHBs. Each applicant will have their own individual plans and timeframes that they are working to.

### **Post-implementation review**

As indicated above, the Scottish Government has commenced an exercise to review all current RHBs.

### **Summary and recommendation**

Argyll and Bute Council, Hebridean Housing Partnership Limited and Urras Oighreachd Ghabhasainn

**Summary costs and benefits table** – no table required as this is not a new policy but existing policy. We are reviewing applications and assessing whether a body should be designated a Rural Housing Body.

The Scottish Government has noted the feedback through the interview of the local businesses in the BRIA process. Following consideration of these comments and the information presented in the applications, Government considers that Argyll and Bute Council, Hebridean Housing Partnership Limited and Urras Oighreachd Ghabhasainn be each designated as a RHB and the SSI made.

The reason for this decision is that the proposed use of Rural Housing Burdens by the Argyll and Bute Council, Hebridean Housing Partnership Limited and Urras Oighreachd Ghabhasainn will benefit the communities and the surrounding areas by selling homes or plots of land for self-build at affordable prices or releasing ex-rental housing stock for sale allowing the local communities an option to purchase affordable housing as well as attracting new people to the areas to help boost the community and economy.

## **Declaration and Publication**

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact 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.

A handwritten signature in black ink, appearing to read 'Siobhian Brown', with a long horizontal flourish extending to the right.

**Signed: Siobhian Brown**

**Date 05 September 2023**

**Minister's name Siobhian Brown**

**Minister's title Victims and Community Safety**

**Scottish Government Contact point: Sandra Jack [sandra.jack@gov.scot](mailto:sandra.jack@gov.scot)**



© Crown copyright 2023



This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at [www.gov.scot](http://www.gov.scot)

Any enquiries regarding this publication should be sent to us at

The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

ISBN: 978-1-83521-362-9 (web only)

Published by The Scottish Government, September 2023

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA  
PPDAS1353122 (09/23)

W W W . g o v . s c o t