

**Equality Impact Assessment  
Implementation of Part 5 of  
the Land Reform (Scotland)  
Act 2016**

**February 2020**

## EQUALITY IMPACT ASSESSMENT RECORD

<b>Title of policy/ practice/ strategy/ legislation etc.</b>	<b>Implementation of Part 5 of the Land Reform (Scotland) Act 2016</b>	
<b>Minister</b>	<b>Cabinet Secretary for Environment, Climate Change and Land Reform</b>	
<b>Lead official</b>	<b>Chris Bierley</b>	
<b>Officials involved in the EQIA</b>	<b>Names</b>	<b>Team</b>
	<b>Chris Bierley Alison Seton</b>	<b>The Land Reform Policy and Legislation Team</b>
<b>Directorate: Division: Team</b>	<b>Directorate for Sustainable Land Use and Rural Policy The Land Reform Policy and Legislation Team</b>	
<b>Is this new policy or revision to an existing policy?</b>	<b>A new policy as detailed in Part 5 of the Land Reform (Scotland) Act 2016.</b>	

### Screening

#### *Policy Aim*

Part 5 of the Land Reform (Scotland) Act 2016 creates a process by which local, place-based communities can seek to acquire a right to buy land or a tenant's interest to further the achievement of sustainable development in relation to the land, even where the owner of the land does not wish to sell the land or the tenant does not wish to sell their interest.

Where an application is successful, the right to purchase the land applies even where the owner of the land is not willing to sell it. It is therefore, like Part 3A of the Land Reform (Scotland) Act 2003 (the Community Right to Buy Abandoned, Neglected or Detrimental Land), a form of compulsory purchase. Part 5 of the 2016 Act is currently not yet in force.

Part 5 of the 2016 Act contains a number of regulation-making powers. They allow Scottish Ministers to make regulations about a

number of matters that relate to Part 5. Under Part 5, Scottish Ministers can only consent to a right to buy application where they are satisfied that certain conditions are met. These conditions, which are in section 56 of the 2016 Act, are of two sorts:

- (a) sustainable development conditions
- (b) procedural requirements

There are no regulation-making powers in Part 5 that would allow modification of these conditions as they are fully set out in the 2016 Act. There are, however, regulation-making powers for some of the procedural requirements. These include the power under section 56(9), which allows regulations to be made about the form and content of the Part 5 community body's request to a land owner or tenant to seek the transfer of land or tenant's interest prior to any formal right to buy application.

Section 56(9) also allows regulations to be made about the form and content of a response from a land owner to a community body's request and the circumstances in which owners are taken not to have responded.

In addition to the regulation-making powers connected with some of the procedural requirements, there are several other regulation-making powers contained in Part 5. These include powers to specify types of land and tenant's interests which are not eligible for purchase under Part 5, and regulations for governing community ballot processes.

This contributes to the following national outcomes:

- We value and enjoy our built and natural environment and protect it and enhance it for future generations.
- We reduce the local and global environmental impact of our consumption and production.
- We live in well-designed, sustainable places where we are able to access the amenities and services we need.
- We have tackled the significant inequalities in Scottish society.

### ***Who will it affect?***

The implementation of the Part 5 legislation will affect local place-based communities who wish to buy land and also public and private land owners whose land becomes subject to such a request. It will also affect tenants where their tenancies or interests are transferred to a new community body land owner.

### ***What might prevent the desired outcomes being achieved?***

Community bodies who wish to make an application to purchase land under Part 5 must meet a number of procedural requirements and sustainable development conditions against which a Part 5 application must be assessed. It is important that communities wishing to use Part 5 understand the requirements and the purpose of Part 5, which is sustainable development.

Failure to adhere to the requirements, or to make a good case for meeting the sustainable development conditions, would lead to the application either being declined or rejected.

Funding is also important, since where compulsory transfer of land is approved by Scottish Ministers, it can only take place where the full value of the land (and tenant's interest in some cases), as determined by an independent valuer, can be paid by the community body. Community bodies must therefore make sure that they have access to funding to buy the land they seek. The Scottish Land Fund (SLF) provides £10 million per annum to support community ownership projects, but to be eligible for SLF support, communities must raise at least 5% of any of the transfer value from sources other than the SLF.

### **Stage 1: Framing**

#### ***Results of framing exercise***

A framing exercise was undertaken by The Land Reform Policy and Legislation Team to gather evidence to inform this EQIA. The exercise involved the Registers of Scotland and a range of officials from appropriate departments across the Scottish Government.

There are no data sets available that provide evidence regarding the impacts of community right to buy schemes on protected characteristics.

***Extent/Level of EQIA required***

The framing exercise indicated that implementation of Part 5 of the Land Reform Scotland Act 2016 has limited relevance to the following protected characteristics: age, sex, sexual orientation, disability, gender reassignment, race, religion or belief and socio economic status.

This policy has no discernible relevance to the protected characteristics: marriage and civil partnership and maternity and pregnancy.

It is considered that a concise and focused EQIA is proportionate in these circumstances.

## Stage 2: Data and evidence gathering, involvement and consultation

Include here the results of your evidence gathering (including framing exercise), including qualitative and quantitative data and the source of that information, whether national statistics, surveys or consultations with relevant equality groups.

Characteristic <sup>1</sup>	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
<b>AGE</b>	<p>Issues raised during framing exercise:</p> <ul style="list-style-type: none"> <li>• 95% of population is now online. Knowledge of how to use the internet is now common up to the age of 75 but people above that age may struggle to use computers.</li> <li>• RoS provides a free telephone helpline that is available to people who are unsure of how to view or search the register.</li> <li>• RoS may provide a service whereby RoS staff will carry out a search of the register on request, depending on the offering of this service RoS may consider if a fee would be charged for this service.</li> <li>• 16 and 17 year olds can hold title to land in Scotland.</li> <li>• 16 and 17 year olds can be named on electoral register</li> <li>• No members of a community body will be named within the Part 5 register. However, the names of each member (including any that may be aged 16 or 17) will be provided on lists sent to a land owner or heritable creditor.</li> </ul>	Framing exercise	<p>As far as we are aware, no data has been collected on age in relation to community right to buy schemes. Results from the Part 5 consultation provided no additional information relating to this protected characteristic.</p> <p>Concerns were raised by one stakeholder about the abilities of elderly land owners, whose land is subject to a Part 5 community right to buy application, to fully understand the requirements of Part 5 processes, and the consequences of certain actions (for example, the failure to reply to a Part 5 request from a community group would allow the community group to apply to Scottish Ministers to buy the land). The Scottish Government will work with stakeholder groups to try to ensure that Part 5 processes are well understood.</p>

<sup>1</sup> Refer to Definitions of Protected Characteristics document for information on the characteristics

	<ul style="list-style-type: none"> <li>No age data/birth dates will be included in the Part 5 register, only names and contact addresses.</li> </ul>		<p>But it must be understood that the legislation will apply equally to all, regardless of their knowledge of the legislation.</p> <p>While no birth dates are collected as part of the Part 5 application process, it is possible that the names of 16 and 17 year old members of a community body would be provided to a land owner or heritable creditor.</p>
<b>DISABILITY</b>	<p>Issues raised during framing exercise:</p> <ul style="list-style-type: none"> <li>The Part 5 register does not capture data on disability.</li> <li>The register will be online but there is a customer service centre available.</li> <li>Hearing/sight loss provision is made by RoS in relation to their website (accessing info on the RoS website is suitable for various types of disability).</li> <li>User testing of IT applications ensure that these are suitable to be used by as many people as possible. Zoom text and screen readers etc. available. Info probably only available through website.</li> <li>Applicants will need to add info via the website in order to register.</li> <li>A customer service centre number is available for those who find using computers challenging and the RoS customer service centres in Edinburgh and Glasgow are also accessible to the public.</li> </ul>	Framing exercise	<p>As far as we are aware, no data has been collected on disability in relation to community right to buy schemes. Stakeholders did not raise any concerns or provide further information relating to this protected characteristic in their responses to the Part 5 consultation. No impacts on this protected characteristic have been documented in relation to previous right to buy schemes.</p>

<b>SEX</b>	<p>Issue raised during framing exercise:</p> <ul style="list-style-type: none"> <li>• Gender is not captured by the register but spouses are mentioned (described as spouses so not gender specific)</li> </ul>	Framing exercise	<p>As far as we are aware, no data has been collected on sex in relation to community right to buy schemes. In responding to the Part 5 consultation, stakeholders did not raise any concerns or provide further information relating to this protected characteristic in their responses to the Part 5 consultation. No impacts on this protected characteristic have been documented in relation to previous right to buy schemes.</p>
<b>PREGNANCY AND MATERNITY</b>	<p>There is no evidence to suggest that pregnancy and maternity will be impacted at all by bringing Part 5 of the Land Reform (Scotland) Act 2016 into force. Therefore this protected characteristic was not discussed during the framing exercise.</p>	Framing exercise	<p>Stakeholders did not raise any concerns or provide further information relating to this protected characteristic in their responses to the Part 5 consultation. No impacts on this protected characteristic have been documented in relation to previous right to buy schemes.</p>
<b>GENDER REASSIGNMENT</b>	<p>Issues raised during framing exercise:</p> <ul style="list-style-type: none"> <li>• Gender reassignment data is not captured by the register aside from what can be inferred from an individual's name.</li> <li>• The documents the register contains are 'frozen in time' and cannot be updated to reflect name changes.</li> </ul>	Framing exercise	<p>As far as we are aware, no data has been collected on gender reassignment in relation to community right to buy schemes. Stakeholders did not raise any concerns or provide further information relating to this protected characteristic in their responses to the Part 5 consultation. No impacts on this protected characteristic have</p>



			been documented in relation to previous right to buy schemes within Scotland.
<b>SEXUAL ORIENTATION</b>	<p>Issues raised during framing exercise:</p> <ul style="list-style-type: none"> <li>• Information on sexual orientation/spouses will not be captured by the Part 5 register</li> <li>• There have been no issues raised to date in relation to naming in other Right to Buy schemes</li> </ul>	Framing exercise	<p>As far as we are aware, no data has been collected on sexual orientation in relation to community right to buy schemes. Stakeholders did not raise any concerns or provide further information relating to this protected characteristic in their responses to the Part 5 consultation. No impacts on this protected characteristic have been documented in relation to previous right to buy schemes within Scotland.</p>
<b>RACE/ ETHNICITY</b>	<p>Issues raised during framing exercise:</p> <ul style="list-style-type: none"> <li>• The Part 5 register will not record ethnicity</li> <li>• There is a potential for language barrier (the register is only accessible in English and applications forms, notices and guidance etc. are also only available in English)</li> <li>• RoS are part of the SG Framework and can access translation services. The public can contact RoS directly through their customer service centre, who would then be able to hold a conversation through interpretation services though this service may require booking. As with any activity involving a number of individuals, it is possible for discrimination to occur, and this may be intentional or unintentional. However, we have no evidence that Part 5 creates any</li> </ul>	Framing exercise	<p>As far as we are aware, no data has been collected on the ethnicity of landowners in Scotland or on ethnicities included within community body trusts etc.</p> <p>Stakeholders did not raise any concerns or provide further information relating to this protected characteristic in their responses to the Part 5 consultation. No impacts on this protected characteristic have been documented in relation to previous right to buy schemes within Scotland.</p>

	<p>particular risk, and do not believe that it does. We assess the risk as low and note that it has to be weighed against the positive opportunities that community engagement offers for members of communities from diverse backgrounds to work together, which can help break down barriers.</p>		
<p><b>RELIGION OR BELIEF</b></p>	<p>Issues raised during framing exercise:</p> <ul style="list-style-type: none"> <li>• The Church of Scotland who are concerned they may be disproportionately affected due to the amount of land and buildings they own.</li> <li>• There is, however, a public interest test within Part 5, and this would be a consideration where a church or associated building is currently being used for its intended purpose, related to the religious needs of the congregation.</li> <li>• It will not usually be possible to infer an individual's religion from their data on the Part 5 register. The exception may be where there was a deliberate religious title (Bishop, Father, Sister, Rabbi etc.), but in such cases, the person's identity would already be public.</li> </ul>	<p>Framing exercise</p>	<p>As far as we are aware, no data has been collected on religion or belief in relation to community right to buy schemes.</p> <p>The Church of Scotland raised concerns in their response to the Part 5 consultation about potential impacts of the policy on religious organisations owning property across Scotland.</p> <p>However, stakeholders did not raise any other concerns or provide further information relating to this protected characteristic in their responses to the Part 5 consultation.</p> <p>No impacts on this protected characteristic have been documented in relation to previous right to buy schemes within Scotland.</p>

<p><b>MARRIAGE AND CIVIL PARTNERSHIP</b> (the Scottish Government does not require assessment against this protected characteristic unless the policy or practice relates to work, for example HR policies and practices - refer to Definitions of Protected Characteristics document for details)</p>	<p>There is no evidence to suggest that marriage and civil partnership will be impacted at all by bringing Part 5 of the Land Reform (Scotland) Act 2016 into force. Therefore this protected characteristic was not discussed during the framing exercise.</p>	<p>Framing exercise</p>	<p>As far as we are aware, no data has been collected on marriage and civil partnership in relation to community right to buy schemes. Stakeholders did not raise any concerns or provide further information relating to this protected characteristic in their responses to the Part 5 consultation. No impacts on this protected characteristic have been documented in relation to previous right to buy schemes within Scotland.</p>
<p><b>SOCIO ECONOMIC STATUS</b></p>	<p>Issues raised during framing exercise:</p> <ul style="list-style-type: none"> <li>• Intuitively it might be inferred that communities with more access to money, resources and expertise, would be able to make better use of right to buy legislation. However, there have not been any proper studies illuminating the socio-economic status of member of communities using/successfully using right to buy legislation.</li> <li>• Initial costs of engaging in a Part 5 process, for instance in organising a community ballot, may be disproportionately high for communities which have limited financial resources or other sorts of resources (such as time and experience).</li> </ul>	<p>Framing exercise</p>	<p>As far as we are aware, there have been no proper studies looking at the connection between socio economic status and community right to buy schemes.</p> <p>The Church of Scotland raised concerns in their response to the Part 5 consultation about potential impacts of the policy on properties serving as temporary accommodation for homeless people. Consultation on Part 5 did not provide any further</p>

	<ul style="list-style-type: none"> <li>• There may be (cost and time) barriers encountered with obtaining/ organising the documentation required for an application, e.g. maps, ballots, business plans</li> <li>• The owners of land or tenants' interests may or may not have significant money/resources at their disposal.</li> <li>• Communities can seek support with their Community Right to Buy (CRtB) applications from organisations such as the Community Ownership Support Service (COSS) and Development Trusts Association Scotland (DTAS).</li> <li>• The high market value of land in some areas could be a barrier to the acquisition of land by community groups.</li> <li>• There will be no charges associated with the application process or in relation to registering or accessing the 'Register of Applications by Community Bodies to Buy Land'. RoS provides a free telephone helpline that is available to people who are unsure of how to view or search the register. RoS may provide a service whereby RoS staff will carry out a search of the register on request, depending on the offering of this service RoS may consider if a fee would be charged for this service.</li> </ul>		<p>information relating to this protected characteristic or raise any additional concerns.</p>
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### Stage 3: Assessing the impacts and identifying opportunities to promote equality

Having considered the data and evidence you have gathered, this section requires you to consider the potential impacts – negative and positive – that your policy might have on each of the protected characteristics. It is important to remember the duty is also a positive one – that we must explore whether the policy offers the opportunity to promote equality and/or foster good relations.

#### Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation	<p>There are no age barriers to participation in the application process to buy land to further sustainable development.</p> <p>As such, all ages can potentially benefit.</p>	<p>It is possible that older people, particularly those over the age of 75, may find the use of online systems and services challenging.</p> <p>16 and 17 year olds can hold title to land in Scotland so, potentially, they could be impacted by Part 5 community right to buy applications.</p>		<p>There is no evidence to show that particular age groups will be impacted to any significant degree through implementation of the Part 5 regulations. It is recognised that there may be minor negative impacts on older people in relation to the use of online application and search facilities.</p> <p>16 and 17 year olds who hold title to land could find their land subject to Part 5 applications, as could younger or older people who benefit from land held in trusts.</p> <p>However, younger or older people in communities that acquire the land under Part 5 transfers could benefit from such acquisitions. Scottish Ministers will assess each case on its merits, and this will include taking into account the effect of a Part 5 transfer on younger or older people where this is relevant and has been raised as a factor (either in support of or against the proposal).</p> <p>It should also be remembered that where a transfer of land or a tenant's interest is approved, it can only take</p>

		It is also possible that charity trusts may own land for the purpose of supporting younger or older people, for example through education or care. However, such factors would be considered when assessing any application against the public interest criterion.		place where the full value for the land or tenant's interest is paid, as determined by an independent valuer.
Advancing equality of opportunity	Section 56 (13) of the Land Reform (Scotland) Act 2016 states that: <i>'In considering a decision under this section on an application under section 54, the Scottish</i>			Part 5 of the Land Reform (Scotland) Act 2016 has the potential to create positive impacts on this protected characteristic, given that in considering any transfer, Scottish Ministers must consider equal opportunities under <i>Section L2 of Part 2 of schedule 5 of the Scotland Act 1998</i> ).  The meaning of equal opportunities within <i>L2 of Part 2 of schedule 5 of the Scotland Act 1998</i> is as follows:  " Equal opportunities " means the prevention, elimination or regulation of discrimination between persons on

	<p><i>Ministers must have regard to [(a)...] (b) the desirability of encouraging equal opportunities (within the meaning of Section L2 of Part 2 of schedule 5 of the Scotland Act 1998).</i></p> <p>The above legislation requires that Scottish Ministers must carry out their functions with due regard to the need to meet equal opportunity requirements.</p>			<p>grounds of <b>sex or marital status</b>, on <b>racial grounds</b>, or on <b>grounds of disability, age, sexual orientation, language or social origin, or of other personal attributes</b>, including <b>beliefs or opinions, such as religious beliefs or political opinions.</b>”</p> <p>Provided that community bodies have good governance systems in place, Part 5 will create opportunities for all members of a particular community, regardless of age, to participate in community ownership of land and other types of asset as well as the ongoing management of those assets.</p>
<p>Promoting good relations among and between different age groups</p>	<p>CRtB schemes have the potential to draw together disparate members of communities. It</p>			<p>Part 5 of the Land Reform (Scotland) Act 2016 has the potential to lead to positive impacts on intergenerational relations by opening up opportunities for people of all ages in a community to become involved in decisions about land and related assets.</p>

	is hoped that this policy will help foster inclusivity, good relations and communications within communities.			
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**Do you think that the policy impacts disabled people?**

<b>Disability</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination, harassment and victimisation		It is possible that people with particular disabilities may face challenges in relation to the Part 5 application processes and online register searches.		There is no evidence to show that people who are disabled will be impacted to any significant degree by implementation of Part 5 of the Land Reform (Scotland) Act 2016. However, it is recognised that there may be minor negative impacts on disabled people in relation to the use of online application and search facilities.
Advancing equality of opportunity	Section 56 (13) of the Land Reform (Scotland) Act 2016 states that: <i>'In considering a decision under this section on an application under section 54, the Scottish Ministers must have regard to</i>			Part 5 of the Land Reform (Scotland) Act 2016 has the potential to create positive impacts on this protected characteristic, given that in considering any transfer, Scottish Ministers must consider equal opportunities under <i>Section L2 of Part 2 of schedule 5 of the Scotland Act 1998</i> ).  The meaning of equal opportunities within <i>L2 of Part 2 of schedule 5 of the Scotland Act 1998</i> is as follows:



	<p><i>[(a)...] (b) the desirability of encouraging equal opportunities (within the meaning of Section L2 of Part 2 of schedule 5 of the Scotland Act 1998).</i></p> <p>The above legislation requires that Scottish Ministers must carry out their functions with due regard to the need to meet equal opportunity requirements.</p>			<p>“ Equal opportunities ” means the prevention, elimination or regulation of discrimination between persons on grounds of <b>sex or marital status</b>, on <b>racial grounds</b>, or on <b>grounds of disability, age, sexual orientation, language or social origin, or of other personal attributes</b>, including <b>beliefs or opinions, such as religious beliefs or political opinions.</b>”</p> <p>Provided that community bodies have good governance systems in place, Part 5 will create opportunities for all members of a particular community, regardless of whether they are disabled or not, to participate in community ownership of land and other types of asset as well as the ongoing management of those assets.</p>
<p>Promoting good relations among and between disabled and non-disabled people</p>	<p>CRTB schemes have the potential to draw together disparate members of communities, including disabled people. It is hoped that this policy will help foster inclusivity, good relations and communications within communities.</p>			<p>It is anticipated that that implementation of Part 5 of the Land Reform (Scotland) Act 2016 will give rise to positive impacts on relations between disabled and non-disabled people by creating opportunities for all to become members of community bodies which purchase and subsequently own and manage land and other assets.</p>

**Do you think that the policy impacts on men and women in different ways?**

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	There is no evidence to show that any particular gender will be impacted to any significant degree through implementation of the Part 5 regulations. The framing exercise did not identify any potential impacts and there are no data to suggest that this protected characteristic is impacted by right to buy legislation.
Advancing equality of opportunity	Section 56 (13) of the Land Reform (Scotland) Act states that: <i>'In considering a decision under this section on an application under section 54, the Scottish Ministers must have regard to [(a)...] (b) the desirability of encouraging equal opportunities (within the meaning of Section L2 of Part 2 of schedule 5 of the Scotland Act 1998).</i>			<p>Part 5 of the Land Reform (Scotland) Act 2016 has the potential to create positive impacts on this protected characteristic, given that in considering any transfer, Scottish Ministers must consider equal opportunities under <i>Section L2 of Part 2 of schedule 5 of the Scotland Act 1998</i>).</p> <p>The meaning of equal opportunities within <i>L2 of Part 2 of schedule 5 of the Scotland Act 1998</i> is as follows:</p> <p>“ Equal opportunities ” means the prevention, elimination or regulation of discrimination between persons on grounds of <b>sex or marital status</b>, on <b>racial grounds</b>, or on <b>grounds of disability, age, sexual orientation, language or social origin, or of other personal attributes</b>, including <b>beliefs or opinions, such as religious beliefs or political opinions.</b>”</p> <p>Provided that community bodies have good governance systems in place, Part 5 will create opportunities for all members of a particular community, regardless of their sex, to participate in community ownership of land and other types of</p>

	<p>The above legislation requires that Scottish Ministers must carry out their functions with due regard to the need to meet equal opportunity requirements.</p> <p>In addition, Section 56 (13) In considering a decision under this section on an application under section 54, the Scottish Ministers must have regard to—</p> <p>(a)relevant non-Convention human rights. As also stated in Annex A of the Scottish Land Rights and Responsibilities Statement, the Scottish Government considers that the <b>Convention on</b></p>			<p>asset as well as the ongoing management of those assets.</p>
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	<p><b>the Elimination of all Forms of Discrimination Against Women (CEDAW)</b> is a relevant non-Convention right.</p> <p><b>Article 14</b> – Makes specific reference to ending discrimination against women in rural areas.</p> <p><b>Article 14</b> includes specific acknowledgement of women's role in the non-monetised aspects of the economy, ensuring women benefit equally with men from any rural development programmes, and, among other things, that women have access to agricultural credit and loans,</p>			
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	<p>marketing facilities, appropriate technology and equal treatment in land and agrarian reforms as well as in land resettlement schemes.</p> <p>The Scottish Government is of the view that in socio-economic and other ways, women should benefit at least equally with men from any Part 5 transfer of land, and that where a socio-economic imbalance between men and women already exists in favour of men, it is reasonable, in line with both the equal opportunities and non-Convention requirements of</p>			
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	the Act, to use Part 5 to benefit women more than men.			
Promoting good relations between men and women			X	The framing exercise did not identify any potential impacts on gender and there are no data to suggest that this protected characteristic is impacted by right to buy legislation.

**Do you think that the policy impacts on women because of pregnancy and maternity?**

<b>Pregnancy and Maternity</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	There are no data to suggest that pregnancy and maternity are impacted by right to buy legislation.
Advancing equality of opportunity			X	There are no data to suggest that pregnancy and maternity are impacted by right to buy legislation.
Promoting good relations			X	There are no data to suggest that pregnancy and maternity are impacted by right to buy legislation.

## Do you think your policy impacts on transsexual people?

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination		Part 5 applications will capture names and addresses. There is no provision for updating names contained within the Register of Applications by Community Bodies to Buy Land.		There are no data to suggest that transsexual people are impacted by right to buy legislation. A minor negative impact is that they will be unable to change their names once these have been recorded within the Part 5 register.
Advancing equality of opportunity	Section 56 (13) of the Land Reform (Scotland) Act states that: <i>'In considering a decision under this section on an application under section 54, the Scottish Ministers must have regard to [(a)...] (b) the desirability of encouraging equal opportunities (within the</i>			<p>Part 5 of the Land Reform (Scotland) Act 2016 has the potential to create positive impacts on this protected characteristic, given that in considering any transfer, Scottish Ministers must consider equal opportunities under <i>Section L2 of Part 2 of schedule 5 of the Scotland Act 1998</i>).</p> <p>The meaning of equal opportunities within <i>L2 of Part 2 of schedule 5 of the Scotland Act 1998</i> is as follows:</p> <p>“ Equal opportunities ” means the prevention, elimination or regulation of discrimination between persons on grounds of <b>sex or marital status</b>, on <b>racial grounds</b>, or on <b>grounds of disability, age, sexual orientation, language or social origin, or of other personal attributes</b>, including <b>beliefs or opinions, such as religious beliefs or political opinions.</b>”</p>

	<p><i>meaning of Section L2 of Part 2 of schedule 5 of the Scotland Act 1998).</i></p> <p>The above legislation requires that Scottish Ministers must carry out their functions with due regard to the need to meet equal opportunity requirements.</p>			<p>Provided that community bodies have good governance systems in place, Part 5 will create opportunities for all members of a particular community, regardless of whether they are transsexual people or not, to participate in community ownership of land and other types of asset as well as the ongoing management of those assets.</p>
<p>Promoting good relations</p>	<p>CRtB schemes have the potential to draw together disparate members of communities, including LGBT people, engaged in CRtB schemes. It is hoped that this policy will help foster</p>			<p>It is anticipated that that implementation of Part 5 of the Land Reform (Scotland) Act 2016 will give rise to positive impacts on relations within communities.</p>



	inclusivity, good communications and relations within communities.			
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### Do you think that the policy impacts on people because of their sexual orientation?

Sexual orientation	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The framing exercise did not identify any potential impacts on sexual orientation and there are no data to suggest that this protected characteristic is impacted by right to buy legislation.
Advancing equality of opportunity	Section 56 (13) of the Land Reform (Scotland) Act states that: <i>'In considering a decision under this section on an application under section 54, the Scottish Ministers must have regard to [(a)...] (b) the desirability of encouraging equal opportunities (within the meaning of Section L2 of Part 2 of schedule 5 of the Scotland Act 1998).</i>			<p>Part 5 of the Land Reform (Scotland) Act 2016 has the potential to create positive impacts on this protected characteristic, given that in considering any transfer, Scottish Ministers must consider equal opportunities under <i>Section L2 of Part 2 of schedule 5 of the Scotland Act 1998</i>).</p> <p>The meaning of equal opportunities within <i>L2 of Part 2 of schedule 5 of the Scotland Act 1998</i> is as follows:</p> <p>“ Equal opportunities ” means the prevention, elimination or regulation of discrimination between persons on grounds of <b>sex or marital status</b>, on <b>racial grounds</b>, or on <b>grounds of disability, age, sexual orientation, language or social origin, or of other personal attributes</b>, including <b>beliefs or opinions, such as religious beliefs or political opinions.</b>”</p>

	<p>The above legislation requires that Scottish Ministers must carry out their functions with due regard to the need to meet equal opportunity requirements.</p> <p>The Scottish Government is of the view that in socio-economic and other ways, women should benefit equally with men from any Part 5 transfer of land, and that where a socio-economic imbalance between men and women already exists, it is reasonable, in line with both the equal opportunities and non-Convention requirements of the Act, to use Part 5 to benefit women more than men.</p>			<p>Provided that community bodies have good governance systems in place, Part 5 will create opportunities for all members of a particular community, regardless of their sexual orientations, to participate in community ownership of land and other types of asset as well as the ongoing management of those assets.</p>
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Promoting good relations				It is anticipated that that implementation of Part 5 of the Land Reform (Scotland) Act 2016 will create opportunities for people to work together for the common good, regardless of sexual orientation.
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**Do you think the policy impacts on people on the grounds of their race?**

<b>Race</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination		<p>Possible negative impacts upon ethnic minorities include:</p> <ul style="list-style-type: none"> <li>• Language barriers</li> <li>• Pre-existing racial prejudices within communities</li> </ul>		<p>There is no evidence to show that different racial groups will be impacted to any significant degree by implementation of the Part 5 regulations.</p> <p>It is possible that language or cultural issues could be a barrier to participation for some people, but this is one of the barriers that community groups should seek to address if they wish to get the support of the whole community.</p>
Advancing equality of opportunity	<p>Section 56 (13) of the Land Reform (Scotland) Act states that: <i>'In considering a decision under this section on an application under section 54, the Scottish Ministers must have regard to</i></p>			<p>Part 5 of the Land Reform (Scotland) Act 2016 has the potential to create positive impacts on this protected characteristic, given that in considering any transfer, Scottish Ministers must consider equal opportunities under <i>Section L2 of Part 2 of schedule 5 of the Scotland Act 1998</i>).</p> <p>The meaning of equal opportunities within <i>L2 of Part 2 of schedule 5 of the Scotland Act 1998</i> is as follows:</p> <p>“ Equal opportunities ” means the prevention, elimination or regulation of discrimination between persons on grounds of <b>sex or marital status</b>, on <b>racial grounds</b>, or on <b>grounds of disability, age,</b></p>

	<p><i>[(a)...] (b) the desirability of encouraging equal opportunities (within the meaning of Section L2 of Part 2 of schedule 5 of the Scotland Act 1998).</i></p> <p>The above legislation requires that Scottish Ministers must carry out their functions with due regard to the need to meet equal opportunity requirements.</p>			<p><b>sexual orientation, language or social origin, or of other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions.”</b></p> <p>Provided that community bodies have good governance systems in place, Part 5 will create opportunities for all members of a particular community, regardless of their race or ethnic origins, to participate in community ownership of land and other types of asset as well as the ongoing management of those assets.</p>
<p>Promoting good race relations</p>	<p>CRtB schemes have the potential to draw together disparate members of communities, including ethnic</p>			<p>It is anticipated that that implementation of Part 5 of the Land Reform (Scotland) Act 2016 will give rise to positive impacts on race relations by creating opportunities for all people within a community, regardless of their ethnic origins, to become members of community bodies which purchase and subsequently own and manage land and other assets.</p>

	minorities. It is hoped that the policy will help foster inclusivity, good relations and communications within communities.			
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**Do you think the policy impacts on people because of their religion or belief?**

<b>Religion or belief</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination		<p>The Church of Scotland has raised concerns that they may be disproportionately affected by the implementation of Part 5 of the Land Reform (Scotland) Act 2016 due to the amount of land and buildings they own within Scotland.</p> <p>However, it would be inappropriate to exempt them from the Part 5 legislation without also exempting all other</p>		<p>There is no evidence to suggest that religious and belief groups will be impacted to any significant degree by implementation of the Part 5 regulations.</p> <p>It is recognised that there may sometimes be an impact on members of religious or belief groups since it will be possible to infer their religion or belief from their data within the Part 5 register.</p>

		organisations that own land in relation to religious or charitable purposes, or where it is held for the public good.		
Advancing equality of opportunity	<p>Section 56 (13) of the Land Reform (Scotland) Act states that: <i>'In considering a decision under this section on an application under section 54, the Scottish Ministers must have regard to [(a)...] (b) the desirability of encouraging equal opportunities (within the meaning of Section L2 of Part 2 of schedule 5 of the Scotland Act 1998).</i></p> <p>The above legislation</p>			<p>Part 5 of the Land Reform (Scotland) Act 2016 has the potential to create positive impacts on this protected characteristic, given that in considering any transfer, Scottish Ministers must consider equal opportunities under <i>Section L2 of Part 2 of schedule 5 of the Scotland Act 1998</i>).</p> <p>The meaning of equal opportunities within <i>L2 of Part 2 of schedule 5 of the Scotland Act 1998</i> is as follows:</p> <p>“ Equal opportunities ” means the prevention, elimination or regulation of discrimination between persons on grounds of <b>sex or marital status</b>, on <b>racial grounds</b>, or on <b>grounds of disability, age, sexual orientation, language or social origin, or of other personal attributes</b>, including <b>beliefs or opinions, such as religious beliefs or political opinions.</b>”</p> <p>Provided that community bodies have good governance systems in place, Part 5 will create opportunities for all members of a particular community, regardless of their religion or beliefs, to participate in community ownership of land and other types of asset as well as the ongoing management of those assets.</p>

	requires that Scottish Ministers must carry out their functions with due regard to the need to meet equal opportunity requirements.			
Promoting good relations	CRtB schemes have the potential to draw together disparate members of communities, including people having different religions and beliefs. It is hoped that the policy will help foster inclusivity, good relations and communications within communities.			It is anticipated that that implementation of Part 5 of the Land Reform (Scotland) Act 2016 will give rise to positive impacts on relations between individuals having different religions or beliefs by creating opportunities for all people within a community, regardless of their religion and beliefs, to become members of community bodies which purchase and subsequently own and manage land and other assets.

**Do you think the policy impacts on people because of their socio economic status?**

<b>Socio economic status</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination	CRtB schemes have the potential to address socio-economic inequalities through the better provision of housing, employment and better quality environments.	<p>Some community bodies and land owners will have access to less money and resources than others.</p> <p>This may prove a barrier to some communities from making use of Part 5.</p> <p>Impoverished land owners (e.g. a capital rich, cash and resource poor farmer), may find it more challenging to engage with a Part 5 application than land owners with more time and resources, including cash.</p>		<p>Part 5 is focused on supporting communities to make socio-economic improvements through sustainable development, which has the potential to reduce socio-economic inequality.</p> <p>The meaning of equal opportunities within <i>L2 of Part 2 of schedule 5 of the Scotland Act 1998</i> is as follows:</p> <p>“ Equal opportunities ” means the prevention, elimination or regulation of discrimination between persons on grounds of <b>sex or marital status</b>, on <b>racial grounds</b>, or on <b>grounds of disability, age, sexual orientation, language or social origin, or of other personal attributes</b>, including <b>beliefs or opinions, such as religious beliefs or political opinions.</b>”</p>



<p>Advancing equality of opportunity</p>	<p>The 2016 Act lends itself to consideration of improvement of the socio-economic situation.</p> <p>In addition to the usual equalities requirements of the 2016 Act (Section 13[b]), Section 56(12) states that: In determining what constitutes significant benefit to the community for the purposes of subsection (2)(c) or harm to the community for the purposes of subsection (2)(d), the Scottish Ministers must consider the likely effect of granting (or not granting) consent to the</p>	<p>A negative to be guarded against is community land owning groups becoming dominated by men.</p>		<p>The requirement to promote Equal opportunities within L2 of Part 2 of schedule 5 of the Scotland Act 1998 has been referred to a number of times.</p>
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	<p>transfer of land or tenant's interest on the lives of the persons comprising that community with reference to the following considerations—</p> <ul style="list-style-type: none"> <li>(a) economic development,</li> <li>(b) regeneration,</li> <li>(c) public health,</li> <li>(d) social wellbeing, and</li> <li>(e) environmental wellbeing.</li> </ul> <p>Section 56 (13) In considering a decision under this section on an application under section 54, the Scottish Ministers must have regard to—</p> <ul style="list-style-type: none"> <li>(a) relevant non-Convention human rights, and</li> <li>(b) the desirability of</li> </ul>			
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	<p>encouraging equal opportunities (within the meaning of Section L2 of Part 2 of schedule 5 of the Scotland Act 1998).</p> <p>Section 56(14) of the 2016 Act clarifies that relevant non-Convention human rights is to include the International Covenant on Economic, Social and Cultural Rights (ICESCR) which includes (as also mentioned in the Scottish Land Rights and Responsibilities Statement Annex A):</p> <p>Article 6 – The Right to Work</p>			
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	Article 11 – Standard of Living Article 12 - The Right to Health Article 13 – The Right to Education Article 15 – Cultural life and enjoyment of Scientific Benefits			
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<p>Promoting good relations</p>	<p>CRtB schemes have the potential to draw together disparate members of communities, including people from different socio economic situations and backgrounds.</p>		<p>It is anticipated that that implementation of the 2016 Act will give rise to positive impacts on relations between individuals having different socio economic status by creating opportunities for all people within a community, regardless of their status, to become members of community bodies which purchase and subsequently own and manage land and other assets.</p> <p>The requirements under section 56(13) of the 2016 Act create opportunities to help communities make socio-economic opportunities for people living in the local area, and this is supported by the ICESCR requirement.</p> <p>The equal opportunities requirement under s.56(13)(b) means that in taking a decision on transfer under Part 5, Ministers must have regard to the prevention, elimination or regulation of discrimination between persons on grounds of social origin, or of other personal attributes.</p>
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**Do you think the policy impacts on people because of their marriage or civil partnership?**

<b>Marriage and Civil Partnership<sup>2</sup></b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	There are no data to suggest that marriage or civil partnership are impacted by community right to buy legislation.

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<sup>2</sup> In respect of this protected characteristic, a body subject to the Public Sector Equality Duty (which includes Scottish Government) only needs to comply with the first need of the duty (to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010) and only in relation to work. This is because the parts of the Act covering services and public functions, premises, education etc. do not apply to that protected characteristic. Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or practice relates to work, for example HR policies and practices.

## Stage 4: Decision making and monitoring

### *Identifying and establishing any required mitigating action*

If, following the impact analysis, you think you have identified any unlawful discrimination – direct or indirect - you must consider and set out what action will be undertaken to mitigate the negative impact. You will need to consult your legal team in SGLD at this point if you have not already done so.

<p>Have positive or negative impacts been identified for any of the equality groups?</p>	<p>Potential positive, but also minor negative impacts been identified for the following protected characteristics: age, sex, sexual orientation, disability, race, religion or belief, gender reassignment and socio economic status.</p> <p>These relate to, for example:</p> <ul style="list-style-type: none"><li>• Positive opportunities for all members of communities to work together to improve their lot;</li><li>• Minor barriers to the use of online systems and access to information;</li><li>• Potential for direct and indirect discrimination occurring within communities participating in CRtB schemes</li><li>• Barriers to accessing financial and other resources</li></ul> <p>While no changes will be made to the policy itself as a result of the EQIA, the potential impacts of the new policy on certain protected characteristics will be reduced or eliminated in a number of ways including:</p> <ul style="list-style-type: none"><li>• Section 56(13) of the Land Reform (Scotland) Act 2016 requires that Scottish Ministers must have regard to the desirability of encouraging equal opportunities.</li></ul>
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	<ul style="list-style-type: none"><li>• Section L2 of Part 2 of schedule 5 of the Scotland Act 1998 requires that Scottish Ministers must carry out their functions with due regard to the need to meet equal opportunity requirements.</li><li>• Registers of Scotland (RoS) have in place customer help services that address potential barriers arising in the viewing or searching of the register. The RoS website makes user-tested provisions for people having visual, physical and coordination-related impairments, for example through the use of zoom text and screen readers. There is a free telephone helpline available for those who encounter difficulties with viewing or searching. There is also public access to the RoS customer service centres in Edinburgh and Glasgow.</li><li>• RoS have in place provisions to address potential language barriers for people wishing to view or search the register.</li><li>• Financial help will be made available to land owners who are subject to CRtB applications. They will be able to recover costs associated with the purchase of their land that they will have had to pay up front.</li><li>• There are no charges associated with the Part 5 application process aside from those incurred in obtaining necessary documentation such as maps.</li><li>• Communities will be able to seek support with their CRtB applications from organisations such as the Community Ownership Support Service and DTAS</li></ul>
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- Appropriate guidance on ensuring inclusivity will be provided to community bodies.
- The rigorous public interest test that will be applied to applications made under Part 5 should prevent the Church of Scotland and other religious organisations being subject to the types of impacts about which they have expressed concerns.

There is a need to ensure that community bodies take account of all the needs and interests that exist within their community, including those of elderly and disabled people and ethnic minorities who may face particular challenges in relation to, for example, the Part 5 application process.

This will be aided by the ballot process which community bodies must undertake as part of the CRtB application process and which must include the whole community.

The Land Reform Unit will provide guidance on inclusivity in relation to the protected characteristics identified above to community bodies seeking to buy land and other assets under Part 5. The extent to which a CRtB application reflects the interests of the whole community will be judged when that application is assessed. Communities of interest do not have the right to buy assets under Part 5.

Where, following a CRtB purchase, a community body subsequently fails to use the asset purchased in line with the conditions of the Part 5 application stipulated by the Scottish Ministers, the Scottish Ministers have the power to take that asset back.

	<p>RoS provides a free telephone helpline that is available to people who are unsure of how to view or search the register.</p> <p>The EQIA has helped us better understand and anticipate the challenges that may be faced by individuals within communities that participate in CRtB schemes as well as those who wish to obtain information from the Part 5 register. This has allowed us to consider whether there are already adequate provisions in place to reduce or eliminate the impacts on these individuals or whether more needs to be done to ensure that they are not disadvantaged in any way.</p>
Is the policy directly or indirectly discriminatory under the Equality Act 2010 <sup>3</sup> ?	No
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	N/A
If not justified, what mitigating action will be undertaken?	N/A

### ***Describing how Equality Impact analysis has shaped the policy making process***

The EQIA has highlighted the paucity of evidence available on the possible impacts of bringing into force Part 5 of the Land Reform (Scotland) Act 2016 on protected characteristics. It has highlighted a need to ensure equitable access for all people who have involvement with the Part 5 processes as well as having processes in place to support both applicants and the owners of land and other assets which are subject to an application under Part 5 and who may have limited financial means and access to other resources.

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<sup>3</sup> See EQIA – Setting the Scene for further information on the legislation.

## ***Monitoring and Review***

The Scottish Government will keep the operation of Part 5 under review.

### **Stage 5 - Authorisation of EQIA**

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes  No

- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:

- Eliminating unlawful discrimination, harassment, victimisation;
- Removing or minimising any barriers and/or disadvantages;
- Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life)
- Fostering good relations, tackling prejudice and promoting understanding.

Yes  No

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes  No  Not applicable

## **Declaration**

**I am satisfied with the equality impact assessment that has been undertaken for the review of funding for postgraduate Distance Learning students and give my authorisation for the results of this assessment to be published on the Scottish Government's website.**

A handwritten signature in black ink that reads "Fiona Harrison". The signature is written in a cursive style with a long, sweeping tail.

**Name: Fiona Harrison**

**Position: Deputy Director, Sustainable Land Use and Rural Policy Division**

**Authorisation date: 22 January 2020**



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