

EQUALITY IMPACT ASSESSMENT RECORD

The Draft Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) (Scotland) Regulations 2021

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Scottish Government
Riaghaltas na h-Alba
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Title of policy/ practice/ strategy/ legislation etc.	The Draft Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) (Scotland) Regulations 2021	
Minister	Roseanna Cunningham	
Lead official	Robin Cornwall, Land Reform Policy and Legislation	
Officials involved in the EQIA	name	team
	Anna Leslie	Land Reform Policy and Legislation
Directorate: Division: Team	Sustainable Land Use and Rural Policy: Land Use and Land Reform: Land Reform Policy and Legislation Team	
Is this new policy or revision to an existing policy?	Secondary Legislation (Scottish Statutory Instrument), provided for in the Land Reform (Scotland) Act 2016	

Summary

A full Equalities Impact Assessment (“EQIA”) was carried out to assess the impact of the proposed Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) (Scotland) Regulations 2021 on protected characteristics. This is a five stage process, beginning with a framing workshop to identify potential impacts on protected characteristics and going on to assess available evidence and any positive or negative impact on these characteristics, before explaining steps taken to mitigate negative outcomes.

The policy is aimed at increasing transparency of who has control over decision-making in relation to land. This will help enable communities and individuals to identify who they should engage with over decisions about land where that person cannot be identified already. It will also aid policy making by allowing a fuller picture of those individuals who have control over decisions about land in Scotland.

The regulations’ purpose is to establish a new register, the Register of Persons Holding a Controlled Interest in Land, to make publicly available information about those who have a controlling interest in land, i.e. those who ultimately make decisions about the management or use of land, even if they are not necessarily recorded as the owner of the land. The new register will be held by Registers of Scotland and the public will be free to search and

access the information online, enabling communities and individuals to benefit from the regulations and support the transparency aims of the policy.

The policy seeks to address two main situations: where land is owned or leased by an opaque entity (such as an overseas company) or where land is owned or leased subject to an opaque arrangement (such as a trust). In these cases the regulations will require the legal owner or tenant of the land to provide information about their controlling interests.

The policy contributes to the national outcomes for communities, environment and economy. In creating greater transparency of who controls land in Scotland and making that information accessible, it will empower communities. It will improve their ability to engage with decisions about land and how it is used, by enabling communities and individuals to ascertain who has the power to make decisions about an area of land and engage with that person or group of people to communicate their ideas and concerns and potentially draw greater benefit from those spaces. Greater transparency also supports an inclusive economy as transparency enables groups to engage with one another, supporting the development of spaces that take account of the community's needs.

Who will it affect?

The register will contain information about those who own or tenant the land (a '**recorded person**') when their land is subject to the control or influence of land (an '**associate**'). For this policy, only tenants who hold a long lease of 20 years or more are considered to have significant influence or control and so captured by the register.

The register will disclose information about associates who control recorded persons through the following:

- a contractual or other arrangement with a person to give that person influence or control over significant decisions in relation to the land,
- a partnership, including any Scottish partnership where at least one partner is an individual,
- a trust,
- an unincorporated association, and
- an overseas legal entity.

Where an individual owns or tenants land under a long lease, but is not subject to a controlling interest i.e. does not have an associate, they will not be required to register. Where a recorded person owns or tenants land under one of the

mechanisms above and is subject to a controlling interest, they will be required to register.

There will be an entry for each recorded person. Each entry for a recorded person will then detail who is in a position to influence or control them in one or more of the capacities listed above. All known associates are required to be recorded in the register. Duties will be placed on recorded persons and associates to provide information for the register.

The register will enable members of the public to engage with the respective parties by accessing the register which will contain parties' contact details. It will be a criminal offence not to comply with duties set out in the regulations, punishable by a fine of up to £5,000.

Consequently, this policy impacts individuals through the requirements for them to register and their need to access the information held by the register. Where a controlling interest exists, there will be an entry for each recorded person. Each public entry for a recorded person or an associate will include the following personal data:

- Name
- Contact Address

This address does not need to be a personal address; for example, individuals could provide a business address or their solicitor's address instead. The policy objective is that the person(s) who control decisions about the land should be contactable.

The date of birth of associates will be also collected to aid differentiation between individuals, but will not be made public. Each associate will be allocated a unique reference number. Subsequently the register does not directly capture any protected characteristics except age, and this information will not be publicly available.

Sixteen and seventeen year olds will be in scope of the register if they own or tenant land, or have a controlling interest in a trust, but they will have the same access and rights to apply for a security declaration (see below) as an adult. Consequently they are not expected to be negatively impacted by a requirement to register.

Although the register impacts on individuals by virtue of their controlling interest in land, this interest may arise due to them belonging to specific types of land owning organisations which represent those with protected characteristics, for example, religious bodies. Through stakeholder engagement we have identified that belief can affect decisions on the

structure of some land owning organisations, which determines who is deemed to have a controlling interest. For example, the structure of some religious organisations may require them to register a high number of people per property as decisions about their land are taken by multiple peoples within the organisation. Some such structures are historic and the introduction of the register may have a significant impact on them due to the number of properties they own and the number of people they have to register. Consequently the protected characteristic of religion and belief is indirectly impacted by the regulations.

Banks, building societies and other providers of mortgages and similar financial products are out of scope of the register, including mortgages designed to be compliant with religious beliefs. However some financial agreements designed to comply with religious beliefs can create an arrangement whereby the creditor has significant influence and control over the recorded person. Such an arrangement could potentially be such as to be within scope of the register and if so would represent another way in which the protected characteristic of religion and belief is indirectly impacted by the regulations. These structures are not thought to be common, and whether or not any particular one was in scope would depend on the specific formulation of each structure and need to be determined on a case by case basis.

We have not found any other evidence to show that any other protected characteristics determine organisational structure, or that protected characteristics impact organisations in any other way that would affect what is captured by the register.

The register will be built following the Digital First programme which ensures accessibility issues are addressed during development in order to avoid any negative impact on those with the protected characteristic of disability.

What might prevent the desired outcomes being achieved?

The aim of the policy is to increase public transparency in relation to individuals who have control over decision-making in relation to land. Schedule 2 provides exemptions from the requirement to register associates only for those already subject to other transparency regimes: requiring them to double report would not contribute to the aim of transparency in land ownership.

Exemption of further bodies and groups that own or tenant land on a long-term basis but are not already reporting would negatively impact this aim, as the names and contact details of those with controlling interests would not be available elsewhere.

If an individual's ability to access information is restricted due to the accessibility of the register, then the transparency aim is also negatively impacted.

Individuals failing to register information also hampers transparency, however this risk is mitigated by the proposed criminal offences for not providing information to the register.

The security declaration will only be applied when appropriate evidence from the Companies House-held register of Persons with Significant Control suggests that security declarations are rarely applied for, and so are expected to have a negligible impact on the overall transparency outcome of the register.

Stage 1: Framing

Results of the Framing Exercise

Transgender

The register will not directly collect data on a person's gender identity or indicate whether an individual had previously identified by another name, which could indicate a change in gender identity. However it was noted that if transgender individuals change their name after their data has been entered on the register then their name on the register would need to be updated. This would be necessary to both meet the aims of the register and correctly reflect a transgender individual's identity. Registers of Scotland currently have a policy in place for transgender individuals registered on the Land Register who change their name, and will explore whether a similar policy could be applied to the Register of Controlled Interests in Land. There is also a requirement in the draft regulations for the Keeper to update information in the Register. Consequently if an individual notified the Keeper of a need to update their name on the register, Registers of Scotland would be required to update their name as soon as reasonably practicable.

Ethnicity

The ethnicity of recorded persons and associates will not be collected by the register and so will not be directly captured. If an individual resides overseas then their address could be an indication of their ethnicity, but recorded persons and associates do not have to provide their own address as a contact address. They could use an alternative address where correspondence could be received, such as UK-based solicitor, and so prevent indication of their ethnicity being indirectly captured through their geographical location. The register and public facing pages where individuals enter registration information will be in English, creating a barrier to online registration if someone does not speak English. In this scenario, the public can contact Registers of Scotland directly through their customer service centre, who would then be able to hold a conversation through interpretation services, though this service may require booking. It is not expected that online 3rd party translation software would work effectively with the online register due to the necessary use of technical language and specific terms.

Disability

The register will not collect information about disability and disability will not be indirectly captured through other data collected by the register. The register will only be available online but will be developed following the Scottish Government's Digital First framework, which places requirements on

the development team to ensure that users with disabilities are able to use the system easily. User testing of the system during development will examine the system's accessibility and the final system will include features such as the ability to increase the size of text and compatibility with most screen reading software. As part of Digital First, the system is assessed before it goes live to ensure that testing has been carried out and that the system has met accessibility standards. If someone would like further support, Registers of Scotland also have a customer service centre that users can phone or they can make an appointment to speak to someone in person.

Age

The register will capture the ages of associates, but this information will not be publicly displayed and is only for use by Registers of Scotland to differentiate between individuals with the same name or correctly identify as a single individual someone who may be an associate to multiple areas of land.

Sixteen and seventeen year olds will be within scope of the register, since an individual can hold land from the age of sixteen and can be an associate at any age, though the numbers are expected to be low. All recorded persons on the register will already have their name and contact address on the Land Register, whatever their age. The Land Registration etc. (Scotland) Act 2012 makes no provision for a proprietor's name not to appear on the publicly available land register. Consequently the Register of Controlled Interests in Land will not reveal any personal information about a recorded person that is not already publically available. It would be counter to the transparency policy aim to exclude associate details from the public register purely on the grounds of age.

Anyone on the register is of course entitled to apply for a security declaration should they meet the criteria set out in Schedule 3 of the draft regulations. Age alone would not normally be considered a valid reason for granting a security declaration, although the Keeper has a discretionary power to grant a security declaration, if the Keeper considers a specific case merits one.

The register will only be available online. Statistically internet usage is very high amongst the general population up to the age of 75.¹ Only 38% of over 75 year olds in Scotland used the internet in 2018, so many in this age group may be uncomfortable or unable to access the register directly themselves. Digital First, however, requires organisations to have a plan to support users with assisted digital needs, defined as those who lack the skills or confidence

¹ Figure 7.8; <https://www.gov.scot/publications/scotlands-people-annual-report-results-2018-scottish-household-survey/pages/7/>

to use the internet, or who do not have internet access. Registers of Scotland will work with Scottish Government to develop the assisted digital service. Users are also able to contact Registers of Scotland's customer service centre over the phone or in writing if they are unsure of how to access or search the register. Registers of Scotland are exploring the provision of an enhanced searching service whereby Registers of Scotland staff will carry out a search of the register on request. Depending on the offering of this service Registers of Scotland may consider if a fee would be charged. For registering or updating information on the Register, users have the option of instructing a professional advisor to complete the online process on their behalf. It is a requirement of Digital First that the register be built at the linguistic level of a 12-year old, thereby minimising any potential language barrier to access to the register.

Gender

An individual's gender is not collected by the register but it could be indirectly captured due to naming conventions. In some instances identifying those associated with certain sites could lead to the revealing of information that could indirectly disadvantage people on the basis of their gender. For example, the location of a women's shelter might be revealed through the identity of the recorded person or their associates, which would put the women who use the shelter at risk. In this scenario, the register's requirements would indirectly have a negative impact on women. To mitigate risks such as this, recorded persons or associates can apply for a security declaration if they feel that the disclosure of their details could result in violence, abuse, intimidation or threat of violence or abuse against themselves or others connected to them.

Religion

An individual's belief or non-belief will not be collected by the register. However, if an individual is an associated person for an area of land owned by a religious body then it might be inferred, correctly or incorrectly, that the individual holds the same beliefs as that organisation.

Engagement with large religious organisations has shown that the requirements of the register will have a significant impact on a few of them due to the nature of their organisational structures, which require large numbers of associates to be entered on the register, and the scale of their land holdings. These organisational structures are historical and based on belief, and result in a significant number of individuals falling within the register's definition of significant influence.

Most religious bodies are not significantly impacted since they either do not hold controlling interests in as many areas of land or are organised in structures that fall under other transparency regimes so are exempt. Due to the significant impact on some large religious organisations, consideration must be given to actions to mitigate the impact while not compromising the transparency aim of the register.

Sexual Orientation

Sexual orientation is not collected by the register and individuals are entitled to apply for a security declaration if they feel the disclosure of their details puts them at risk. The naming conventions of trusts and their subsequent associates could reveal family information, in particular identify that an individual is part of a family. The exact familial relationships of members of these trusts will not, however, be evident in the register as it will not collect that information. Consequently it is not likely that these naming conventions would indirectly disclose members' sexual orientations through marriages or civil partnerships.

Socioeconomic

The register will be free to register and access and so the requirement to register will not disadvantage those with a lower socioeconomic status through cost alone. Internet usage amongst those from a lower socioeconomic background is however much lower than those from higher socioeconomic ones.² Those without internet access can access information through the assisted digital service and Registers of Scotland's customer service centre. As previously mentioned, Registers of Scotland are exploring the provision of an enhanced searching service and depending on the offering of this service Registers of Scotland may consider if a fee would be charged. Individuals without internet access could also access the register themselves at their local library, if the facilities are available.

The criminal penalties associated with failing to register or provide accurate information to the Keeper are the same for everyone required to register and could be up to £5000. Consequently the penalties would have a greater impact on someone from a lower socioeconomic background as they would have less ability to pay. However the Procurator Fiscal would consider all cases regarding a failure to register in line with the Prosecution Code which takes into account the nature, gravity and impact of an offence and whether

² Scottish Government, Scottish Household Survey 2018: Annual Report, <https://www.gov.scot/publications/scotlands-people-annual-report-results-2018-scottish-household-survey/pages/7/>

prosecuting is considered to be in the public interest.³ There is a need to balance the impact of fines against large landowners or corporate entities with the impact on individuals and smaller bodies such as charities. Consequently the maximum fine was set at £5000 but it is anticipated that individuals' circumstances would be taken into account during sentencing.

Considerations Across Protected Characteristics

In the case of an organisation failing to register, individuals would be liable for the failure and so any fine issued would not necessarily impact on the organisation. In the case of charities or other organisations that represent or work with those with protected characteristics, this protects those who receive support from negative impact if the organisation failed to register.

Extent of EQIA required

Following on from the findings of the framing workshop, we assess that, with one exception, the differential impact on protected characteristics is low. The register does not directly collect any protected characteristics except age, and it does not make that characteristic publically available. As discussed in the results of the framing exercise, the majority of ways in which the policy could impact those with protected characteristics have been addressed through the use of the regulations, existing practices and security declarations.

The only significant impact identified was in relation to some large religious bodies who would need to register a high number of individuals for each area of land due to their organisational structure. Most religious bodies either have structures that exempt them from the register or have fewer land holdings with controlled interests and therefore would be required to register fewer individuals.

A medium risk EQIA is therefore required for this protected characteristic, to assess whether the impact on these religious bodies can be mitigated through measures that would need to apply to all those in scope of the regulations, while still meeting the policy aims.

As the differential impact on other characteristics is considered to be low and already addressed where necessary, a low risk EQIA is appropriate.

³ Crown Office and Procurator Fiscal Service, Prosecution Code, <https://www.copfs.gov.uk/images/Documents/Publications/Prosecution%20Code%20Aug%2017.pdf>

Stage 2: Data and evidence gathering, involvement and consultation

Characteristic ⁴	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
AGE	National statistical data on internet use based on an individual's age – good general indicator of ability to use or comfort accessing an online register based on an individual's age	Scottish Household Survey 2018	None – alternative options are available for those unable or uncomfortable accessing online services on their own and the policy otherwise addresses any impact based on age
DISABILITY	<p>1. Details of the requirements of the Digital Scotland Service Standard in terms of accessibility – provides assurance of engagement with users during development to ensure that the system is accessible and gives an indication of the level of accessibility of the final system</p> <p>2. Registers of Scotland's provisions for those seeking further support to access the register – provides confirmation of option to contact Registers of Scotland should users have difficulty accessing the system online</p>	<p>1. Point 5, Digital Scotland Service Standard, Digital Scotland</p> <p>2. Registers of Scotland</p>	None – disability will not be directly or indirectly captured and options identified in evidence gathering will ensure that individuals with disabilities will be able to access the register, either by themselves or with the assistance of Registers of Scotland's customer service centre
SEX	No specific evidence gathered as there is none available in relation to land. A potential impact was identified during the framing workshop for groups representing those with this characteristic, which the policy has considered and provided for security declarations to mitigate this impact.	Not applicable	None – The policy already has provisions to address the potential impact identified during the framing exercise

⁴ Refer to Definitions of Protected Characteristics document for information on the characteristics

PREGNANCY AND MATERNITY	This protected characteristic is not captured directly or indirectly by the register, and maternity leave does not typically affect a person's legal position as an associate or recorded person. Additionally there is no evidence in relation to pregnancy and maternity and land issues.	Not applicable	While an individual's ability to be in a position where they could be an associate is not necessarily impacted by pregnancy or maternity, they may choose to take leave or step down from the position that makes them an associate. The individual would then need to be removed as an associate. This process would happen in the same way as any other associate and so it is not expected to be an additional burden on recorded persons.
GENDER REASSIGNMENT	Registers of Scotland's existing policy for the Land Register enables transgender individuals to update their names after an entry has been made. A commitment has been made by Registers of Scotland to explore if the same policy could be applied to the Register of Persons Holding a Controlled Interest in Land.	Registers of Scotland	None - Commitment to the exploration of a policy by Registers of Scotland together with provisions in this policy for the event-driven update of the Register will ensure that transgender individuals' names can be updated in the register by informing the Keeper. No other issues were identified in relation to gender reassignment and the policy.
SEXUAL ORIENTATION	No specific evidence is available in relation to sexual orientation and land use. The naming conventions of some trusts may reveal familial connections, but not specific relationships.	Land Register, Registers of Scotland	No evidence gaps were identified as the policy will not capture sexual orientation directly nor is expected to capture it indirectly.

			Familial connections between individuals might be revealed but not specific relationships.
RACE	3,157 titles on the Land Register were held by overseas entities as at 31 December 2018, with a total of 1,593 separate entities owning these titles respectively – this data gives an indication of the number of entities and subsequent associates that would be required to register, though it does not indicate where these entities are based or if all their associates reside outside of Scotland.	Registers of Scotland	We do not have data on what percentage of the population (or of those on the Land Register) are not fluent in English or do not consider it to be their first language. This data would provide some indication of the impact of the register only being available in English, though not an accurate reflection. Individuals unable to access the register due to a language barrier could do so through an interpretation service as discussed in the framing workshop findings. This would address access issues for members of the public, while it is expected that overseas entities required to register are likely to use a professional advisor to do so.
RELIGION OR BELIEF	1. Consultation responses – concerns raised by stakeholders about complexity of historical structures of some large religious organisations and the impact the policy’s requirements would have on those organisations	1. Consultation on “Delivering improved transparency in land ownership in Scotland: Consultation on the	No additional evidence gaps were identified following research, consultation and stakeholder engagement. The evidence collected was used to identify mitigating actions and

	<p>2. Research into the organisational structure and legal persona of religious organisations that own land – following on from the concerns raised through consultations, research was conducted to assess what forms of religious body may be disproportionately impacted to give an indication of the impact of the regulations on those organisations. This evidence was used to assess what forms of mitigating actions would be most effective while still meeting the aims of the policy.</p> <p>3. Research into the types and structures of mortgage and other similar financial arrangements and their practical application – concerns were raised by stakeholders that mortgage arrangements specifically designed to be compliant with religious beliefs could come within scope of the register due to the structure of the arrangements, while other mortgage arrangements are out of scope. The research was used to assess if mortgage arrangements designed to be compliant with religious beliefs would be within scope.</p>	<p>draft regulations” and consultation on “Improving transparency in land ownership in Scotland: a consultation on controlling interests in land”</p> <p>2. Religious organisation’s websites and stakeholder engagement</p> <p>3. Registers of Scotland</p>	<p>consequently three new provisions were developed for the regulations: bodies who exert control through a statutory function were exempted from having to register; if a body is captured by both Parts 3 and 4 of Schedule 1, then they are only required to register following the provisions in Part 4; and where an associate has more than one association to a recorded person for a piece of land, they are only required to be listed as an associate once for that piece of land. These provisions reduce the registration burden on large religious organisations and reduce unnecessary duplication while ensuring the policy’s transparency aims are met. Following consideration of the evidence, it was determined that mortgages designed to be compliant with religious beliefs are out of scope of register and so would not be treated differently from other mortgage arrangements in relation to the</p>
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			register or disproportionately impacted by the register.
MARRIAGE AND CIVIL PARTNERSHIP (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)	Not applicable as the policy does not relate to work	Not applicable to policy	Not applicable to policy

Stage 3: Assessing the impacts and identifying opportunities to promote equality

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			No impact	The policy aim is improving transparency in decision making in relation to land by creating a register that would act as a point of reference for information on controlled interests. It does not directly or indirectly address discrimination, harassment or victimisation.
Advancing equality of opportunity	Positive Impact			The register treats all associates equally regardless of age, and the public record will not display age.
Promoting good relations among and between different age groups			No impact	The register will not disclose associates' dates of birth and is intended simply to provide a point of contact when someone needs to engage with a person who can make decisions in relation to a piece of land, and so does not actively promote good relations.

Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			No impact	The policy aim is improving transparency in decision making in relation to land by creating a register that would act as a point of reference for information on controlled interests. It does not directly or indirectly address discrimination, harassment or victimisation.
Advancing equality of opportunity	Positive impact			While the register will make it easier for everyone to access information about controlled interests, it may have a greater impact for disabled people as the design of the register and user support will consider and account for

				accessibility issues to ensure disabled people are able to access the register, whereas previously there may have been barriers to them accessing information.
Promoting good relations among and between disabled and non-disabled people			No impact	The register is only designed to provide a point of contact when someone needs to engage with a person who can make decisions in relation to a piece of land, and so does not actively promote good relations.

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			No impact	The policy aim is improving transparency in decision making in relation to land by creating a register that would act as a point of reference for information on controlled interests. It does not directly or indirectly address discrimination.
Advancing equality of opportunity			No impact	The information on the register will be beneficial to both men and women equally and will not provide any information that is already readily available to one group more than the other.
Promoting good relations between men and women			No impact	The policy aim is improving transparency in decision making in relation to land by creating a register that would act as a point of reference for information on controlled interests. It does not directly or indirectly address relations between men and women.

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

Pregnancy and	Positive	Negative	None	Reasons for your decision
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Maternity				
Eliminating unlawful discrimination			No impact	The policy aim is improving transparency in decision making in relation to land by creating a register that would act as a point of reference for information on controlled interests. It does not directly or indirectly address discrimination.
Advancing equality of opportunity			No impact	The policy does not directly or indirectly address equality of opportunity in terms of pregnancy and maternity.
Promoting good relations			No impact	The policy does not directly or indirectly promote good relations in terms of pregnancy and maternity as its focus is on transparency of controlled interest in land.

Do you think your policy impacts on transsexual people?

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			No impact	The policy aim is improving transparency in decision making in relation to land by creating a register that would act as a point of reference for information on controlled interests. It does not directly or indirectly address discrimination.
Advancing equality of opportunity			No impact	The policy does not directly or indirectly address equality of opportunity for transgender individuals.
Promoting good relations			No impact	The policy does not directly or indirectly promote good relations in terms of transgender individuals as its focus is on transparency of controlled interest in land. Additionally as the register will allow a person's name to be updated, the register should not indirectly capture if a person identifies as transgender, as previous entries on the register will not be retained once the name is updated.

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			No impact	The policy aim is improving transparency in decision making in relation to land by creating a register that would act as a point of reference for information on controlled interests. It does not directly or indirectly address discrimination.
Advancing equality of opportunity			No impact	The policy does not directly or indirectly address equality of opportunity in terms of sexual orientation.
Promoting good relations			No impact	The policy does not directly or indirectly promote good relations in terms of sexual orientation as its focus is on transparency of controlled interest in land.

Do you think the policy impacts on people on the grounds of their race?

Race	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			No impact	The policy aim is improving transparency in decision making in relation to land by creating a register that would act as a point of reference for information on controlled interests. It does not directly or indirectly address discrimination.
Advancing equality of opportunity			No impact	The policy does not directly or indirectly address equality of opportunity in terms of race as it is concerned with access to information on controlled interest in land.
Promoting good race relations			No impact	The policy does not directly or indirectly promote good relations in terms of race as its focus is on transparency of controlled interest in land and a person's race will not be captured by the register.

Do you think the policy impacts on people because of their religion or belief?

Religion or belief	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			No impact	The policy aim is improving transparency in decision making in relation to land by creating a register that would act as a point of reference for information on controlled interests. It does not directly or indirectly address discrimination.
Advancing equality of opportunity			No impact	The policy does not directly or indirectly address equality of opportunity in terms of religion or belief as it is concerned with public access for all to information on controlled interest in land.
Promoting good relations			No impact	The policy does not directly or indirectly promote good relations. There is no existing evidence to suggest that the current levels of transparency in relation to land owned by religious bodies have a significant impact on relations, and so it is unclear if increased transparency will improve relations. It is unlikely that increased transparency would have a detrimental effect on relations as the land with a controlled interest would already be owned by the religious body and the policy would facilitate greater openness through engagement between the community and the body.

Do you think the policy impacts on people because of their marriage or civil partnership?

Marriage and Civil Partnership⁵	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			No impact	Not applicable as the policy does not relate to work.

⁵ 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

Have positive or negative impacts been identified for any of the equality groups?	Yes
Is the policy directly or indirectly discriminatory under the Equality Act 2010 ⁶ ?	No
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	Not applicable
If not justified, what mitigating action will be undertaken?	Not applicable

Describing how Equality Impact analysis has shaped the policy making process

The equality impact analysis has not had a wide-ranging impact on the development of the policy, as many of the issues highlighted by the analysis were already addressed in the policy. The EQIA has, however, led to changes to the scope of the requirement to register in order to mitigate the impact of registration on some large religious bodies. The following provisions have been added:

- The exemption of bodies that exert influence through a function conferred by an enactment
- Where bodies are both trusts and unincorporated associations, allowing them to register following only the provisions for an unincorporated association
- Where individuals are both recorded persons and associates for the same piece of land, exempting them for registering as both to avoid unnecessary duplication

These provisions would reduce the number of associates some large religious bodies would be required to register, reducing the burden on them while still maintaining the policy aims and not introducing discriminatory exceptions.

⁶ See EQIA – Setting the Scene for further information on the legislation.

The impact analysis identified the need for Registers of Scotland to explore options relating to the delivery of the register. They will subsequently investigate whether the Land Register's policy for when transgender individuals change their name could be applied to the Register of Persons Holding a Controlled Interest in Land. The register will be free to access, search and register on digitally, and Registers of Scotland and Scottish Government will identify a process for an assisted digital service for users who are unable to do so digitally. Registers of Scotland will explore the provision of an enhanced searching service whereby Registers of Scotland staff will carry out a search of the register on request. Depending on the offering of this service Registers of Scotland may consider if a fee would be charged. They also have a process for individuals to seek support from their customer service centre through translation services.

Some of the mitigating actions to be taken or explored will have cost implications for Registers of Scotland, who will develop and manage the system. If the cost of translation services used through their customer service centre and searches or registration support for those who are having issues accessing the system are not passed on to the customer, then these costs will need to be absorbed by Registers of Scotland. As the register is going to be free to use digitally, it will not create revenue to cover these additional potential costs.

As the policy is primarily concerned with the transparency of land it will benefit all communities by empowering them to identify and engage with those make decisions about land in their area. Communities in a geographical area are likely to include individuals with a variety of protected characteristics. Consequently the policy is unlikely to directly benefit a community of individuals sharing a particular protected characteristic, but rather benefit individuals with protected characteristics within a geographical community.

Monitoring and Review

Registers of Scotland will own and host the register created by this policy and so will be responsible for monitoring its usage and evaluating the system. They currently use Google Analytics to identify usage such as user drop off on specific screens, user journey time and the amount of time a user takes to complete a process such as registering on the system. The data Google Analytics provides can give insights into user behaviour and system performance which can be used to make the system more user friendly. It is likely Google Analytics will be used, with other recognised monitoring tools to understand user behaviour with a view to constantly improving the service. It is also extremely likely that there will be a facility to feedback via the service itself any issues or improvements users identify which would then be considered by the development team. Calls received by the Register of Scotland customer service centre on service improvement would be raised with the development team. They also actively seek feedback from users to improve their

services and ensure they are meeting customer needs. As these monitoring processes apply to all users, they will help to monitor the equality issues raised in the impact assessment. For example, data regarding user behaviour, calls about accessibility issues and feedback can be used to identify if the system is not accessible for some users with a disability and if this can be addressed.

The volume of registrations following the initial registration period will be monitored and reviewed on a regular basis to assess the success of the register in capturing controlling interests. The registration data can also be used to identify if certain categories of land ownership are not as commonly registered as would be expected, as this could indicate a lack of awareness of the responsibilities to register.

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 Register of Persons Holding a Controlled Interest in Land and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name:



Position: Deputy Director, Future Rural Policy, Land Use and Land Reform

Authorisation date: 25/11/202



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