

COMMUNITY EMPOWERMENT (SCOTLAND) BILL

POLICY MEMORANDUM

INTRODUCTION

1. This document relates to the Community Empowerment (Scotland) Bill introduced in the Scottish Parliament on 11 June 2014. It has been prepared by the Scottish Government to satisfy Rule 9.3.3 of the Parliament's Standing Orders. The contents are entirely the responsibility of the Scottish Government and have not been endorsed by the Parliament. Explanatory Notes and other accompanying documents are published separately as SP Bill 52–EN.

POLICY AIM OF THE BILL

2. The core purpose of the Scottish Government is to focus government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth. This will only be achieved by making the most of all the resources available in Scotland, especially the collective talents, creativity and determination of Scotland's people.

3. The Scottish Government believes that Scotland's people are its greatest asset: they are best placed to make decisions about our future, and to know what is needed to deliver sustainable and resilient communities. A key aim underpinning the Scottish Government's core purpose is to create the conditions for community empowerment, as reflected in *Empowering Scotland: The Government's Programme for Scotland 2013-14* (2013)¹.

4. In line with trusting the people who live and work in Scotland to make decisions about the nation's future, the essence of self-determination, the Scottish Government is also committed to supporting subsidiarity and local decision-making. The Scottish Government and local government have a strong partnership approach, which has built on the Concordat signed in 2007. Local authorities have a key role to play in providing leadership, and in promoting and supporting community empowerment. They have a strong understanding of the needs and aspirations of local communities, together with a democratic mandate to make decisions which balance the needs and aspirations of people across the local authority area. The proposals in this Bill reflect and build on that role.

¹ <http://www.scotland.gov.uk/Publications/2013/09/8177>

5. The Bill reflects these policy principles of subsidiarity, community empowerment and improving outcomes and provides a strategic framework which will:

- Empower community bodies through the ownership of land and buildings and strengthening their voices in the decisions that matter to them; and
- Support an increase in the pace and scale of Public Service Reform by cementing the focus on achieving outcomes and improving the process of community planning.

In doing so, this Bill aims to support approaches that can contribute to improving outcomes in all aspects of people's lives.

6. Empowerment is a core pillar of the human rights approach. The Bill will help to ensure people can meaningfully participate in decisions that affect their lives. In carrying out their duties and making decisions under the Bill, public authorities will also be bound by equalities legislation and the Public Sector Equality Duty² under Part 11 of the Equality Act 2010.

BACKGROUND

Community Empowerment

7. When people feel they can influence what happens in their community and can contribute to delivering change, there can be many benefits. Communities can often achieve significant improvements by doing things for themselves, because they know what will work for them. They become more confident and resilient; there are often opportunities for people to gain new skills and for increased employment as well as improved access to services and support. These in turn can lead to improvements in a wide range of areas such as crime, health, and reducing inequalities. Community empowerment can therefore have an important impact on a range of outcomes in the Government's National Performance Framework : <http://www.scotland.gov.uk/About/Performance/purposestratobj>

8. Scotland has a long and proud tradition of people coming together to use their energy and creativity to make a difference for their communities. A wide range of groups often play an anchor role within communities, including Community Controlled Housing Associations, Community Development Trusts, and more informal associations. There is now a strong network of community groups across Scotland, supporting one another, exchanging ideas and encouraging more communities to become involved.

9. The Scottish Community Empowerment Action Plan: Celebrating Success: Inspiring Change³, published jointly in 2009 by the Scottish Government and COSLA, defined community empowerment as "a process where people work together to make change happen in their communities by having more power and influence over what matters to them".

10. Community empowerment means different things for different communities. Some communities will want to take on the ownership or management of land or buildings, or delivery

² <http://www.crer.org.uk/public-sector-equality-duty>

³ <http://www.scotland.gov.uk/Topics/People/engage/empowerment>

of services to members of their community. Others may be more interested in engaging with the public sector to have more say in how services are delivered or how assets are used.

11. All public service providers have a responsibility to create the conditions that encourage and support strong, independent and resilient communities, and ensuring a focus on supporting community empowerment is a key plank of public service reform. Communities are often best placed to determine outcomes for local services, and public service providers should facilitate processes which fully engage communities in the decisions that are taken about the design and delivery of services to achieve those outcomes. The Scottish Government is clear that it is important that community voices are heard in public sector processes, but that this engagement differs from community empowerment, where communities lead change for themselves.

Democratic Engagement

12. Local government and other public service providers increasingly use a range of community engagement and participatory activities to seek views on their service delivery. This recognises that representative democracy needs to be complemented by other ways in which people can express their views and influence decisions which affect them. Such activities can in turn inspire increased engagement with local and national government. When people are actively engaged in tackling issues in their communities, have direct contact with elected representatives and feel that they can influence decisions, they are more likely to become involved in the electoral process themselves, whether at Community Council, local authority or national level. This enhances the relationship between elected members and the communities they represent and can lead to better-informed decision making all round.

Public service reform

13. Scotland's public sector organisations provide high quality services which people value. They play an important role in creating a stronger economy and a fairer society. However, in order to ensure they maintain that quality and remain financially viable, further reform is needed. The *Report of the Commission on the Future Delivery of Public Services* (2011)⁴, chaired by Campbell Christie ("the Christie Commission") made clear that public sector organisations must work more effectively together and in partnership with communities, with a focus on achieving outcomes.

14. The Scottish Government's response to the Christie Commission's report (*Renewing Scotland's Public Services: Priorities for Reform in Response to the Christie Commission* (2011)⁵) is founded on four pillars: People; Partnership; Prevention; and Performance. These four pillars were drawn together to help focus on achieving success and meeting the ambitions of the Christie Commission. There was also a clear recognition in the report and in the Government's response, of the need to work with people rather than doing things to them, and in the importance of "place".

⁴ <http://www.scotland.gov.uk/Publications/2011/06/27154527/0>

⁵ <http://www.scotland.gov.uk/Publications/2011/09/21104740/0>

Community Planning

15. At local level, Community Planning Partnerships (CPPs) have a key role to play in shaping and delivering change. Community planning is the process by which key public service providers work together and with communities to plan and provide services within a local authority area. The key strategy document for each CPP is the Single Outcome Agreement (SOA) which provides a shared ‘plan for place’ aimed at reducing inequalities and delivering better outcomes for communities.

16. The Statement of Ambition for Community Planning and SOAs⁶, issued by the Scottish Government and COSLA in March 2012, says that—

“Effective community planning arrangements will be at the core of public service reform. They will drive the pace of service integration, increase the focus on prevention and secure continuous improvement in public service delivery, in order to achieve better outcomes for communities.”

17. Work is already underway to strengthen community planning. For example, the National Community Planning Group brings together public and third sector leaders including from COSLA, the NHS and the Scottish Government. It is providing national leadership for efforts to strengthen community planning, with a focus on making public sector budgets work better together, preventing problems before they happen, working more effectively with communities, governance, accountability and improving performance. The Bill will underpin these developments by strengthening the legal base for community planning.

Role of legislation

18. Ultimately, community empowerment cannot be delivered by legislation alone, although creating a supportive legal framework will enhance the process. The availability of appropriate support, guidance and a culture of nurturing community action are also key. As communities become more empowered they are likely to seek partnerships with organisations in the public private and voluntary sector to achieve their goals. Supporting such approaches is increasingly becoming a priority in the context of re-shaping public services.

19. Empowering communities is not a new process. There are already many examples of community empowerment in action throughout Scotland. Where communities want to do something for themselves this has often been facilitated by good practice guidance, funding being available and the attitudes, skills and commitment of many people working in many different organisations.

20. However, it is clear from a range of sources, for example the report of the Local Government and Regeneration Committee’s *Delivery of Regeneration in Scotland Inquiry* (published 24 February 2014), that experience across the country has been mixed. It is also the case that in many areas of community empowerment, different public sector organisations have different levels of involvement. For example, local authorities often have greater experience

⁶ <http://www.scotland.gov.uk/Topics/Government/local-government/CP/soa>

than many other public authorities. A key reason for bringing forward this legislation is to address this inconsistency and promote best practice throughout Scotland.

21. The purpose of the Bill is to remove barriers and make it easier for communities to achieve their goals, by giving communities clear rights to play a more pro-active role, and placing clear duties on public sector bodies to engage with communities and to respond to their requests.

22. Many of the issues in the Bill build on existing guidance and the experience of communities themselves in becoming more empowered, as well as those who have been working over the years to support communities. As such, it does not seek to introduce any completely new or novel concepts. Rather, it puts in place a consistent and transparent framework and processes which will underpin, extend and improve good current practice to make it universal and enduring.

CONSULTATION

23. The Scottish National Party's 2011 manifesto⁷ proposed a Community Empowerment and Renewal Bill which would "give local people a greater say in their area, enabling them to deal more easily with derelict and eyesore properties and take over underused or unused public buildings for the benefit of their community". The Christie Commission report also recommended that the Bill should "promote significantly improved community participation in the design and delivery of services" (paragraph 4.41).

24. An exploratory Consultation on the proposed Community Empowerment and Renewal Bill⁸ was held between June and September 2012, setting out a wide range of actions which, it had been suggested, could strengthen participation, unlock enterprising community development and renew communities. During the consultation period, Scottish Government officials took part in a series of conferences and local meetings with a range of people from the public and voluntary sectors and with community volunteers. A series of road-shows was also organised with the assistance of COSLA to meet local government officials and representatives. 447 responses to the consultation were received from a mix of individuals, community and voluntary groups, community councils, and the public and private sectors. An independent analysis of the responses was published in January 2013⁹.

25. The results of the exploratory consultation showed that some issues needed to be addressed through legislation. On other issues, it was felt that other approaches might be more effective. Proposals from the exploratory consultation not taken forward in this Bill include:

- Duty on public services to publish and communicate community engagement plans
- Duty for public service authorities to have a named community engagement officer

⁷ http://votesnp.com/campaigns/SNP_Manifesto_2011_lowRes.pdf

⁸ <http://www.scotland.gov.uk/Publications/2012/06/7786>

⁹ <http://www.scotland.gov.uk/Publications/2013/01/9545>

It was felt that much effort could be expended on producing a plan, rather than actually engaging with communities. Similarly, having a single named officer might result in a perception that other officers were not responsible for community engagement. A requirement to engage with communities is included in the Bill in relation to community planning, and is expressed with a focus on the outcome, rather than the process.

- Improving procurement processes to increase access for community groups to public service delivery contracts

Measures in the Procurement Reform (Scotland) Bill are designed to make it simpler to access and bid for public sector contracts. These measures will help tackle unnecessary inconsistencies for suppliers doing business with the public sector and will help ensure that doing business with the public sector can be simple, transparent and more accessible to suppliers.

- Right for communities to be consulted on local budgets

The Bill will strengthen requirements for communities to be involved in setting priorities for public services, which has a significant impact on how budgets are spent. The Scottish Government also supports Participatory Budgeting (PB), which directly involves local people in decisions on a specific budget. A number of small PB projects have taken place across Scotland in recent years. The Scottish Government is funding consultancy support to help more local authorities develop PB in their areas.

- Power to enforce the sale or lease of long-term empty property

There are already a range of powers available to local authorities to bring long term empty property back into use, and it was not clear that new legislation would be more effective than the current powers. The Government is continuing the work of the Empty Homes Partnership and monitoring the use of other powers, such as compulsory purchase for immediate re-sale and the Local Government Finance (Unoccupied Properties etc) (Scotland) Act 2012.

- Community Councils

Community Councils are elected bodies established by local authorities under the Local Government (Scotland) Act 1973. They have a statutory role in representing the views of the community to the local authority and other public bodies.

Community Council activity is very variable across Scotland; some are seen almost as community anchor organisations, with good connections to all the groups within their community, others play a largely formal role and a local development trust or Tenants and Residents Association may be more active.

There was no clear support for legislative change to the status of Community Councils in the exploratory consultation, or in the recommendations of the Community Councils Short Life Working Group which reported in October 2012. The Scottish Government is taking forward work to strengthen the role of Community Councils and increase the diversity of members.

While the Bill does not amend the legislative status of Community Councils, it does recognise their interest in shaping local services, and gives them a specific role in relation to common good assets.

26. A second, more detailed Consultation on the Community Empowerment (Scotland) Bill¹⁰ was held between November 2013 and January 2014 on a set of 10 topics which had been identified for possible inclusion in the Bill, including draft legislative provisions on 4 topics and detailed questions about the proposed content of legislation on a further 3. This consultation included new issues which had been suggested for inclusion since the earlier consultation. The Minister for Local Government and Planning and Scottish Government officials attended over 30 events and meetings to provide information about the Bill to stakeholders to help them in preparing their responses. The Government is grateful to all those organisations that arranged events for their members to discuss the proposals, and to those local authorities that hosted regional events for local government.

27. 424 responses were received from a wide range of public sector, community, third sector and private organisations, and from individuals. Non-confidential consultation responses were published on 28 February on the Scottish Government website¹¹. The Scottish Government commissioned the independent consultancy organisation, The Research Shop, to undertake a formal analysis of consultation responses, which was published on 12 June 2014.

28. Overall, there was general support for the topics proposed to be included in the Bill, and helpful suggestions were made to improve the proposals. There was concern that people might have difficulty in understanding the language of the draft legislation and that many communities would need support to be able to take the opportunities offered by the Bill. As noted earlier in this document, the Scottish Government expects all public service providers to support communities in using these processes and in becoming more empowered generally. Full guidance on the procedures established by the Bill will be developed in partnership with stakeholders.

29. Further detail on the responses to individual sections of the consultation is provided in relation to each Part of the Bill below.

SPECIFIC PROVISIONS

Part 1: National Outcomes

30. In 2007, the Scottish Ministers introduced “Scotland Performs”¹², to provide a clear vision for the kind of Scotland they want to see. This was refreshed in 2011. It sets out the Government’s core Purpose, supported by 5 Strategic Objectives and 16 National Outcomes. There are also detailed Purpose Targets and National Indicators which track progress towards the Purpose and National Outcomes. All devolved public services in Scotland are now aligning their work to this single framework. It is part of a new way of making policy, and is helping to change the way public services are delivered. The outcomes approach means that different

¹⁰ <http://www.scotland.gov.uk/Publications/2013/11/5740>

¹¹ <http://www.scotland.gov.uk/Publications/2014/02/2073>

¹² <http://www.scotland.gov.uk/About/Performance>

organisations are working towards shared goals, defined in terms of the impact they make for individuals and communities, rather than just how efficiently the service is delivered.

31. Scotland Performs has been recognised both in the UK and internationally as an innovative and useful approach to defining strategic outcomes for government, and demonstrating progress towards them. It provides a description of what contributes to National Wellbeing, and ways of measuring that. The Carnegie UK Trust recommended in its report *Shifting the Dial in Scotland* (2013) that the outcomes approach should be embedded in legislation, to ensure it continues to be used in the long term.

32. In consultation, almost all those who responded to this issue supported placing the outcomes approach in legislation. The Bill places a duty on the Scottish Ministers to develop, consult on and publish a set of national outcomes for Scotland, which must be reviewed at least once every 5 years. They must also regularly and publicly report progress towards those outcomes. These duties are not intended to require future governments to use the same model of purpose, targets, outcomes and indicators as currently used in Scotland Performs. It requires national outcomes to be determined, but there is flexibility as to how these may be presented and measured.

Alternative approaches

33. The alternative would be to continue the national outcomes based approach on a non-statutory basis. It is considered that, whilst this has worked well up until now, putting the outcomes on a statutory footing is necessary to demonstrate a long-term commitment to the approach, strengthen the prominence of the outcomes approach and enhance accountability.

Part 2: Community Planning

34. Community planning is currently established in Part 2 of the Local Government in Scotland Act 2003. This places a duty on local authorities to initiate, maintain and facilitate a process by which public services are planned and provided in the local authority area. Core partners¹³ are under a duty to participate in the process. There is no statutory requirement to establish Community Planning Partnerships (CPPs), although it is an expectation in supporting statutory guidance¹⁴. There are 32 CPPs in Scotland, one for each local authority area.

35. Current guidance¹⁵ makes clear that CPPs should be engaging with their communities in identifying and prioritising the outcomes that are to be delivered, and working with communities to develop their capacity to contribute to community planning and to their achievement of better outcomes. However, this is not currently a clear statutory requirement.

36. Legislative changes to community planning are an important element of a series of reforms which give effect to the Statement of Ambition (see paragraph 16). The Scottish

¹³ Core partners under the 2003 Act are local authorities, health boards, police and fire services, Scottish Enterprise, Highlands and Islands Enterprise, and Regional Transport Partnerships.

¹⁴ <http://www.scotland.gov.uk/Resource/Doc/47237/0028845.pdf>

¹⁵ <http://www.scotland.gov.uk/Topics/Government/local-government/CP/SOA2012/SOA2012>

Government therefore expects CPPs to drive public service reform effectively at local level. This is needed to achieve an overarching purpose of sustainable economic growth, better outcomes and reduced inequalities for local communities in Scotland through delivery of high quality public services.

37. The measures in the Bill seek to support this ambition by putting CPPs on a statutory basis with defined roles and responsibilities, and placing new duties on public sector partners to play a full and active role in community planning and the resourcing and delivery of local priority outcomes. In doing so they complement and reinforce the significant national and local action that is already underway to strengthen community planning. For example, CPPs have developed and are delivering new Single Outcome Agreements, which are their strategic plans for improving local outcomes (the equivalent of local outcome improvement plans as described in the Bill). These should provide a clear “plan for place”, focused on prevention and reducing inequalities. The Accounts Commission and Auditor General have led the introduction of new external audits which provide assurance for the performance of CPPs and help them to deliver better outcomes. A National Community Planning Group has been established to provide political and strategic leadership and guidance. And, the Scottish Government and Economic and Social Research Council are investing £3 million in What Works Scotland, an independent centre which will support effective practice, for communities and CPPs, by evaluating evidence from emerging approaches to public service delivery and reform.

38. The consultation paper sought views on what changes to legislation would help to improve community planning. There was general support for the direction of change. Many constructive comments were made which have shaped the provisions in the Bill and will continue to be taken into account in providing guidance.

39. As outlined above, the 2003 Act frames community planning as a process by which the planning and provision of public services in an area takes place. The Bill amends this legislative basis so that community planning is the process by which public bodies work together and with community bodies to plan for, resource and provide services which improve local outcomes in the local authority area. This clearly sets out how the Scottish Government intends community planning to operate, and the presence of communities in the core of the process.

40. The Bill requires the community planning partners to come together in each local authority area to form a CPP. The role of a CPP is to prepare a plan for improving local outcomes, in consultation with community bodies and others. These outcomes are to be consistent with the national outcomes determined by the Scottish Ministers under Part 1 of the Bill. The CPP must publish the plan, monitor progress being made and report annually on progress.

41. The Bill also extends the list of key partners to include a wider range of public bodies that may have a role in influencing local outcomes, including Scottish Natural Heritage, Skills Development Scotland, and the new integration joint boards formed under the Public Bodies (Joint Working) (Scotland) Act 2014. Individual partners have a duty to work collaboratively and to take into account the plan for local outcomes when setting their individual priorities. These partners are also expected to commit resources to delivery of the plan and report to the CPP on their contribution.

42. The 2003 Act provides that local authorities should maintain and facilitate the community planning process. The predominant view of responses to the second consultation was that it is important the CPP should not be perceived as an extension of the local authority, and that a more robust accountability framework is needed for CPPs. The Bill therefore places additional duties on a defined set of public sector partner bodies (including local authorities, NHS bodies and Police Scotland) to ensure that the CPP carries out its functions efficiently and effectively, and its partners work collaboratively.

Alternative approaches

43. As noted above, a range of significant national and local action is currently underway to strengthen community planning. Nevertheless, the Scottish Government and COSLA agreed that, to give full effect to the Statement of Ambition, it would be necessary to place formal requirements on CPPs to plan for outcomes in their SOA and ensure that appropriate action is taken to collaborate in the delivery of local priority outcomes. They also agreed that partner bodies should be under a duty to work together to improve outcomes for local communities through participation in CPPs and the provision of resources to deliver the SOA. These proposals require changes to the existing legislation, in particular so that duties can be placed on CPPs rather than only on the partners, to place the focus on the delivery of improved outcomes rather than on process, and to update the duties on partners. No alternative approaches could achieve this.

Part 3: Participation requests

44. The Christie Commission recommended that this Bill should seek to strengthen communities' voices in shaping the services which affect them. Evidence shows that involving people more regularly and more effectively in the decisions that affect them leads to better outcomes, making the most of the knowledge and talent that lies in communities. It also increases confidence and fosters more positive relationships between communities and the public sector.

45. There is a strong history of the public sector engaging with communities across Scotland. In particular, local authorities have used a variety of engagement methods over the years and have promoted the use of tools like the National Standards for Community Engagement (Communities Scotland, 2005 – now available, with support materials, from the Scottish Community Development Centre¹⁶). The Scottish Government sets clear expectations that all public sector organisations must engage with communities and support their participation in setting priorities and in the design and delivery of services. The provisions in Part 3 of the Bill are not intended to replace that activity, but they give community bodies an additional power to initiate that dialogue on their own terms, and a right to have their views properly considered.

46. A concern of respondents to the consultations, from all sectors, was how to ensure community bodies are open, inclusive, and truly represent their communities. Section 14 identifies the key features of a body which meets these requirements, ensuring that it is open to all members of the community and controlled by those members. It is for the body to define the

¹⁶ <http://www.scdc.org.uk/what/national-standards/>

community it represents, whether that is by geographical boundaries or by common interests or characteristics of its members.

47. Where an appropriate community body, or a group of bodies, believes it could help to improve the outcome of a service, it will be able to make a request to the public body or bodies that deliver that service, asking to take part in a process to improve that outcome. The community body will need to explain what experience it has of the service and how it could contribute to its improvement; this could be as simple as showing that its members are users of the service and outlining their ideas. The public body must agree to the request for dialogue unless there are reasonable grounds for refusal. If it refuses the request, it must explain the reasons. At the end of the process the public body must publish a report on whether the outcomes were improved and how the community body contributed to that improvement.

48. Community bodies might use these provisions to discuss with service providers how they could better meet the needs of users, to offer volunteers to support a service, or even to propose that they take on the delivery of a service themselves. It will be for the public body to decide whether to make any changes to existing service delivery arrangements. If the community body proposes to deliver services itself, the public body will need to decide whether the community body has an appropriate corporate structure and the capacity to take on that role.

49. The public body does not need to set up a separate outcome improvement process for each community body that makes a request. If it has a number of requests relating to the same service, or already has a participation process in place, it may invite other community bodies to join in the existing process. Community bodies may also choose to come together to make a request jointly.

Alternative approaches

50. As noted in the Consultation section, the Scottish Government sought views on a range of approaches which could potentially widen participation and contribute to empowering communities. The Bill builds on the consultation responses and provides an enabling legislative framework to support community participation in setting priorities and in the design and delivery of local services. The Bill will work alongside actions being taken by other means, as described in the Background and Consultation sections.

51. The first consultation showed significant support for a right for communities to challenge service provision if they were not satisfied. Such a right can only be implemented through legislation, therefore non-legislative approaches were not considered. This right complements community engagement and participation activities which are taken forward on the basis of guidance, as described in paragraph 45 above.

52. An alternative approach which might have been taken in legislation is that of the “Community Right to Challenge” contained in the Localism Act 2011 which affects England and Wales. That right enables a community body to require a local authority to put a service out to tender, at which point the community body may bid to run the service. Responses to the Scottish Government’s consultation considered that model did not necessarily give the community body any new influence over the service, and could result in the tender being awarded to a commercial provider who was less responsive to community needs. In the second consultation on the draft

Bill, respondents were generally in favour of the outcome improvement process approach. A range of comments were provided which are either addressed in the Bill or will be addressed in guidance.

Parts 4 and 5: Community control of land and buildings

53. In many cases, the key to effective community led action may be ownership or control of land or buildings. This can be about protecting or enhancing local facilities, creating new spaces and new uses, generating income for community activity or providing alternative stewardship for heritage and environmental assets. It can increase community confidence and cohesion, allowing communities to realise their aspirations and control their destinies. Whether it is retaining the local shop, renovating a derelict site or providing a hub for community activities, control of assets can be a key factor in making a community more attractive to live in, supporting economic regeneration and sustainable development.

54. The community right to buy, introduced by Part 2 of the Land Reform (Scotland) Act 2003 (the 2003 Act), came into effect in June 2004. Alongside this legislation, the Scottish Government and other bodies have put in place a range of funding and advice to help communities take control of assets which will help them achieve economic, social and environmental benefits. Some of this support is targeted to particular areas while other projects work throughout Scotland. Support includes, for example, the Scottish Land Fund, worth £9 million over 2012-16, the BIG Lottery Fund's Growing Community Assets programme, and advice available from Highlands and Islands Enterprise and the Community Ownership Support Service provided by the Development Trusts Association Scotland. There is also a flourishing network of community bodies ready to offer their experience and encouragement to others seeking to take on assets.

55. In the past 20 years, nearly half a million acres of land have transferred into community ownership, either through the community right to buy or by negotiation. The Scottish Government has set a target of increasing this to one million acres by 2020.

Part 4: Community Right to Buy

56. The Bill makes amendments to the community right to buy provided for under Part 2 of the Land Reform (Scotland) Act 2003 ("the 2003 Act"). These changes build on the experience gained over 10 years of working with the legislation, extensive post-legislative scrutiny of the 2003 Act, the submissions made to the Land Reform Review Group and the interim views of that Group.

57. The Bill also inserts a new Part 3A into the 2003 Act which provides a framework for community bodies representing communities across Scotland to purchase abandoned or neglected land without a willing seller, in order to further the achievement of sustainable development of land.

Extension of community right to buy to the whole of Scotland

58. Under Part 2 of the 2003 Act, the Scottish Ministers can define what is "registrable land" and "excluded land" for the purposes of the Act. "Registrable land" must be land that appears to

Ministers to be rural. To meet that requirement, “excluded land” has been defined, in the Community Right to Buy (Definition of Excluded Land) (Scotland) Order 2009, by reference to settlements of over 10,000 population. Only land outwith those settlements is currently covered by the community right to buy regime.

59. While there can be particular issues in relation to the ownership and use of land in rural areas, existing community activity has demonstrated that there is also substantial public benefit to be gained from community ownership of land and buildings in urban areas. The same issues of community confidence and cohesion, sustainability and improvements to the built and natural environment apply wherever communities are empowered to take control of assets. In the consultation, 93% of those who responded to the question supported the extension of the community right to buy to urban areas. A key reason given was to provide people living in urban areas with the same rights as those in rural areas.

60. Section 27 of the Bill therefore repeals the wording in the 2003 Act relating to the definition of “registrable land” and the power of the Scottish Ministers to define “excluded land”. The effect of this will be that the community right to buy will apply throughout Scotland.

Changes to procedures, including streamlining and increasing flexibility

61. Based on the experience of those using the legislation over the first decade of the community right to buy, the Bill makes a number of changes to the detailed procedures and requirements of the process under Part 2 of the 2003 Act. These changes will help to give communities greater flexibility in how they use aspects of the provisions (such as the way they define their “community” and broadening the scope of legal entities that can use them), allow communities to focus on the development of their plans and to clarify them. It will allow communities to use the legislation in circumstances where they could not do so before. The streamlined provisions will also strengthen and clarify aspects of the legislation and improve administration of the provisions for all parties using them. The provisions will help to bring more land into community ownership, while continuing to strike a fair balance between the rights of communities and landowners.

62. There was substantial support for the changes which were set out in the consultation. In many cases over 80% of those who responded to each question agreed with the proposal. A number of other changes have been made which were not consulted on, but which address issues experienced by parties using the provisions.

63. The amendments made by sections 28 to 47 of the Bill include:

- Making it easier for communities to define their “community” in a greater variety of ways, not just by postcode;
- Extending the legal entities that can use the community right to buy provisions to include Scottish Charitable Incorporated Organisations (SCIOs), and allowing for other legal entities to be added by subordinate legislation;
- In relation to the ballot required after the right to buy has been triggered, providing for the Scottish Ministers to arrange for this to be conducted by an independent third party,

and for Ministers to meet the cost of this, making the community right to buy process easier for community bodies;

- Extending the period available to complete the right to buy;
- Replacing the “good reasons” test for “late” applications with one which sets out clear requirements to be met by community bodies when submitting a “late” application;
- Making the valuation process more robust by allowing for counter-representations between the landowner and the community body;
- Giving Ministers discretion to allow them to recover the cost of the independent valuation from the landowner where the landowner has withdrawn the land from sale after the valuer has been appointed, thus deterring landowners from allowing the process to proceed where the land is not genuinely being offered for sale.

“Compulsory” community right to buy for abandoned and neglected land

64. While the existing community right to buy under Part 2 of the 2003 Act allows a community to register an interest in land at any time, it can only buy the land if the owner decides to sell: it requires a willing seller.

65. Land that is neglected or abandoned can be a barrier to the sustainable development of land. In some cases it may prevent the community from developing or improving facilities. There are also cases where derelict or neglected sites become a blight on the surrounding area, and the community could bring the land back into productive use. The Scottish Government considers that in such circumstances, where all other options fail to achieve improvement, communities should be able to acquire the land without having to wait for it to be put on the market. Section 48 inserts a new Part 3A into the 2003 Act providing for community bodies to acquire land in certain circumstances, without a willing seller. Where Ministers approve the community’s application, the owner will be required to transfer the land to the community body, which will be required to pay market value for the land.

66. In consultation, 83% of those who responded to the question on whether there should be a compulsory power for communities to buy neglected or abandoned land in certain circumstances supported this proposal. However, there was a clear difference between sectors. In particular, many local government respondents felt that such complex issues could be better resolved by powers vested in local authorities.

67. The Scottish Government considers that there is a general public interest in removing barriers to sustainable development of land by enabling community bodies to purchase neglected and abandoned land. Before approving an application Ministers will have to be satisfied, amongst other things, that it is in the public interest for the right to buy to be exercised in that case, that the right to buy is compatible with furthering the achievement of sustainable development in relation to the land and that the continued ownership of the land by the owner is inconsistent with furthering the achievement of sustainable development in relation to the land.

68. Section 97C of the new Part 3A provides that land is eligible to be bought under that Part if in the opinion of Ministers it is wholly or mainly abandoned or neglected. In making that

decision, Ministers must have regard to matters that will be prescribed in secondary legislation. These will be subject to further consultation. However, it is suggested that the matters to be considered could include: the physical condition of the land or building; its current use (or non-use); any detrimental economic or environmental impact on the local area; and any failure by the landowner to comply with regulatory requirements. Ministers would also need to consider any environmental, planning or historic designations affecting the land or buildings, for example if there are any restrictions on its use or development relating to conservation purposes.

69. Section 97C also sets out land that is not eligible land and so Part 3A will not apply to it. This includes land which is eligible for the crofting community right to buy under Part 3 of the 2003 Act and certain land on which a person's home is situated. Other types of land may be excluded by subordinate legislation.

70. In terms of procedure, the crofting community right to buy in Part 3 of the 2003 Act already provides a right to buy without a willing seller for crofting communities wishing to buy their croft land. The procedure for Part 3A is based on the procedure in Part 3 of the 2003 Act. This includes a requirement for Ministers to invite the owner and others affected by the application to give their views on the application. Ministers must have regard to any views submitted in making their decisions. The procedure also makes provision for valuation of the land, for payment by the community body of the market value of the land, for the payment of compensation in certain circumstances, and for appeals against the Minister's decision or against the valuation.

Alternative approaches

71. Consultation clearly showed support for extending the community right to buy to all of Scotland, and for a compulsory community right to buy in appropriate circumstances. These proposals can only be addressed through legislation.

72. Some stakeholders have proposed broader rights for the community purchase of land without a willing seller. The Scottish Government considers that the approach taken in the Bill is appropriate in order to further the achievement of sustainable development of the land.

73. There was also a desire to address promptly a range of improvements which have been suggested to the procedures for community right to buy under Part 2 of the 2003 Act. Given these are statutory procedures, legislation is required to amend them. An overall review of the system was carried out to determine whether it continued to be fit for purpose, in the light of ten years' experience. This concluded that fundamental change was not required, and helped to identify or confirm those areas where adjustments would be helpful.

Part 5: Asset Transfer Requests

74. The public sector owns a wide range of land and buildings throughout Scotland, ranging from forests to schools, hospitals to waterworks. Many communities may wish to take control of assets in their area, enabling them to address local needs and deliver community benefit. In many cases this will also contribute to achieving the outcomes set by public sector bodies, and can lead to reduced demand for public services.

75. It is always important for community bodies to consider what assets would be appropriate for their needs and what form of control is best for them. The focus should not be just on buildings or land that a public authority is closing or has deemed to be “surplus”, but on what the community seeks to achieve and what property would help them achieve that. Similarly, ownership is not always the best answer; leasing, or managing a site on behalf of the owner, may be a better solution which allows for a division of responsibilities and costs. This may also be a stepping-stone to ownership in the future.

76. An increasing number of public authorities have established asset transfer schemes and are working with communities as part of their wider asset management strategies. This is a welcome development. The Bill goes further, giving the initiative to communities to identify property they are interested in, and placing a duty on public authorities to agree to the request unless they can show reasonable grounds for refusal.

77. Community bodies will be able to approach public authorities for detailed information about a property they are interested in, before making a formal request. Details of what information is to be provided will be set out in secondary legislation. It may include, for example, information about maintenance costs and energy efficiency.

78. When a community body makes a request for a public sector asset, the relevant authority will be required to assess the community body’s proposals against the current use or any other proposal. The decision will be based on the economic, social and environmental benefits of different proposals, and other factors that may be relevant including the functions and purposes of the authority. The authority must agree to the request unless there are reasonable grounds for refusal.

79. If a request is refused by a relevant authority other than the Scottish Ministers or a local authority, the community body may appeal to the Scottish Ministers. Local authorities, which are democratically accountable in their own right, are required to make separate arrangements for review of their decisions. Ministers may make regulations about the form those arrangements must take.

Consultation and alternative approaches

80. Promoting community asset transfer was a core element in original proposals for the Bill. This attracted substantial support in consultation, and the detailed provisions have been strongly informed by suggestions made by respondents.

81. Many local authorities, and some other parts of the public sector in Scotland, already have asset transfer schemes in place. The Scottish Government encourages this through a range of policies, and funds the Community Ownership Support Service, which provides advice and support on the process to both community groups and public sector organisations. However, there are still cases where requests for asset transfer are dismissed, or where the process is not clear or takes too long. It was therefore felt that a legislative solution was necessary to achieve consistent good practice across the public sector, rather than the alternative of continuing with further guidance and support.

82. One alternative approach which could have been taken is to limit asset transfer to land and buildings which were considered “unused or underused”, or to those which had been identified as surplus by the current owner. However, this would not meet the aim of empowering communities to identify for themselves which sites are important to them and best suit their needs.

83. Another alternative would have been to change who has the power to take decisions on asset transfer. Some respondents to the consultation suggested a new Commission, that the Scottish Ministers should have oversight of all decisions, or that community bodies should have an automatic right to purchase. The Scottish Government considers that it is most appropriate for these decisions to be taken by the current public sector owners of the land or building. Local authorities are democratically accountable for their decisions; for land owned by public bodies there is a right of appeal to the Scottish Ministers.

Part 6: Common Good Property

84. “Common good”, in Scotland, refers to certain assets which were originally acquired by former burghs, and to which title has been passed down to local authorities through successive rounds of local government re-organisation. They include both moveable items (furniture, paintings, regalia etc) and heritable ones (land and buildings), as well as cash funds which may have been derived from the use or sale of common good property. CIPFA’s guidance on Accounting for the Common Good¹⁷ provides a useful description of how common good arises.

85. Audit Scotland stated that at 31 March 2011, councils managed common good assets valued at £219 million¹⁸. While this is less than 1% of the estimated total value of council owned property assets (then valued at £35 billion), common good assets often have strong historical and emotional value to local communities, as well as being of practical use to them.

86. Due to the special status of common good, it has to be accounted for in a particular way, separate from other local authority assets, and there are special rules about its disposal. There is a long history of common law decisions clarifying whether particular items form part of the common good and how they can be used or disposed of.

87. While local authorities should already have details of their common good assets, in line with accounting good practice, this is not always readily available to the public, and there may be disputes about what is included. The aim of Part 6 of the Bill is to increase transparency about the existence, use and disposal of common good assets, and to increase community involvement in decisions taken about their identification, use and disposal. 75% of respondents to this consultation question agreed that the proposals would achieve this.

88. Part 6 places a new statutory duty on local authorities to establish and maintain a register of all property held by them for the common good. When establishing the register, a proposed

¹⁷ <http://www.cipfa.org/regions/scotland/policy-and-technical/local-authority-scotland-accounts-advisory-committee/guidance-and-publications/accounting-for-the-common-good>

¹⁸ Audit Scotland, *An Overview of Local Government in Scotland: Challenges and Change in 2012* (2012)

list must be published and community councils and other community bodies must be invited to comment on it. The completed register must be made available for inspection and online.

89. Further provisions require local authorities to publish their proposals and consult community councils and other community bodies before disposing of or changing the use of common good assets.

90. The Scottish Ministers may issue guidance about these duties and about the management and use of common good property, to which local authorities must have regard. Such guidance is expected to include details of the information to be included in the register and appropriate arrangements for consultation.

91. These provisions do not seek to provide a new definition of common good. Inclusion on the register, or exclusion from it, will not determine whether property is in fact common good. Given the complexity of the subject, there is a high risk that any such approach might not cover all existing assets which are considered to be common good, and might cover things which are currently excluded. Rather, the intention is to provide an opportunity for community councils, other community bodies and individuals to see what the local authority considers to be common good property, and to highlight any items they believe should be included (or omitted). It is not intended that local authorities will be expected to legally verify the status of every item on the register or proposed during the consultation; this will normally only be necessary if there is significant dispute.

92. The requirement for consultation before common good property is disposed of or its use is changed will similarly increase transparency about common good assets, and fits with the general aim of ensuring that communities are fully involved in decisions that matter to them. In relation to land and buildings, this will also be in line with good practice in asset management and asset transfer strategies.

Alternative approaches

93. There is a strong demand from stakeholders for greater transparency about common good property, and for communities to have more say in its management. One option to achieve this could have been the production of further guidance and encouragement. However, it was felt that a stronger approach was required, and therefore the Bill proposes statutory duties on local authorities to ensure transparency and consultation with communities.

Part 7: Allotments

94. In recent years interest in local food has grown, along with a desire to know where our food comes from. More and more people are interested in growing their own food. It is also increasingly recognised that gardening and working with the environment can bring a range of health and social benefits. Many community bodies include community growing among their activities, and the community right to buy and asset transfer (including lease or use) may be used to provide space for this. Another key way to provide suitable land for people to grow their own food is by the provision of allotments.

95. In 2009 the Scottish Government published its first National Food and Drink Policy – Recipe for Success. This Policy made a clear commitment to strategically support allotments and community growing spaces. To help the Scottish Government meet this end the Grow Your Own Working Group was established. One of its recommendations was to amend the legislation governing allotments, and specifically to review the duties placed on Local Authorities. The SNP Manifesto in 2011 reflected this recommendation by making a commitment to update the legislation.

96. The existing legislative framework for allotments is complex, and consultation has shown strong agreement that it needs to be updated. The principal legislation is the Allotments (Scotland) Act 1892 as amended by the Land Settlement (Scotland) Act 1919 and the Allotment (Scotland) Acts of 1922 and 1950. In addition to the two consultations on the Bill, a separate consultation on the allotments legislation was held in April-May 2013, which has informed the detail of the provisions in the Bill. The Bill repeals the existing legislation and makes new, simplified provision. Where appropriate, this includes restatement of provisions of the old legislation.

97. Part 7 of the Bill provides a new, clear definition of an allotment and an allotment site, reflecting current usage. It places a duty on local authorities to hold and maintain waiting lists for allotments, and to take reasonable steps to provide more allotments if the waiting list exceeds certain trigger points. This addresses a key concern about the level of demand for allotments and the length of time people may be on a waiting list. The Bill also prevents local authorities from disposing of or changing the use of an allotment site without the consent of the Scottish Ministers, thereby providing a level of protection to allotment sites.

98. Local authorities must publish an Annual Allotments Report and a food-growing strategy, setting out land that has been identified for allotments or other community growing in the local authority's area and how it will meet demand. They are required to make regulations about allotments (which was previously optional). These will cover issues such as allocations, rent, maintenance, and whether tenants are allowed to keep livestock or sell surplus produce. The Bill also clarifies arrangements relating to the management of allotments and the rights of allotment tenants.

Alternative approaches

99. As set out above, the proposal for revision of the legislation on allotments arose from the recommendations of the Grow Your Own Working Group. This group set out a wide range of recommendations to support allotments and community growing spaces, requiring varying approaches to implement them. The Working Group continues to meet and is making good progress on the recommendations; further information can be found at <http://www.scotland.gov.uk/Topics/Business-Industry/Food-Industry/own>.

100. Amending the legislation governing allotments was identified as a specific task within the wider aim of supporting people to grow their own food. It was recognised that the existing legislation needed to be updated, simplified and clarified. Given the complex legislative framework governing allotments, creating new provisions was considered to be a more straightforward approach than seeking to amend the previous legislation. Detailed consultation

has resulted in a balanced framework that places appropriate duties on local authorities, while allowing flexibility to reflect local circumstances.

Part 8: Non-domestic rates

101. Supporting businesses to flourish is a key strand in promoting resilient communities and sustainable places. One element of that is ensuring that non-domestic rates are set appropriately and reflect the needs of businesses and the local economy.

102. There is a wide range of business rate relief schemes set nationally, which benefit small businesses or those in particular sectors or geographic areas. Local authorities currently have very little scope to vary the reliefs locally. The Bill introduces a new power to allow councils to create localised relief schemes to better reflect local needs and support communities. There will be no restrictions on this power; local authorities will be able to grant the relief to any type of ratepayer or for any reason, as they see fit.

103. Any local reliefs introduced by a local authority will need to be fully funded by that authority, so it will need to balance the interests of taxpayers across its area. Local authorities will not be able to change the poundage rate or introduce local supplements.

Alternative approaches

104. This power was consulted on as part of a wider consultation on business rates reform, “Supporting Business, Promoting Growth”, carried out between November 2012 and February 2013, in which a range of options were explored for how the rating system can help stimulate sustainable economic growth and how to improve transparency and streamline the operation of the rating system, including the appeals process. The option of allowing local authorities flexibility to introduce and fund relief schemes to reflect local circumstances and priorities received strong support, which has been echoed in ongoing stakeholder engagement since.

105. Legislation is the only way of implementing this new power. Given the level of support for this option, the alternative of doing nothing was rejected.

EFFECTS ON EQUAL OPPORTUNITIES, HUMAN RIGHTS, ISLAND COMMUNITIES, LOCAL GOVERNMENT, SUSTAINABLE DEVELOPMENT ETC.

Equal Opportunities

106. An Equality Impact Assessment (EQIA) has been carried out and will be published shortly on the Scottish Government website at <http://www.scotland.gov.uk/Publications/Recent>.

107. The EQIA concludes that the Bill’s provisions are neither directly or indirectly discriminatory on the basis of age, disability, race, religion or belief, sex, sexual orientation or gender reassignment.

108. The provisions of the Bill are largely enabling, giving powers and duties to the Scottish Ministers, local authorities and public bodies to make decisions that meet local needs, either in

response to community proposals or demand, or resulting from engagement and consultation with the community. All these bodies are subject to the public sector equality duty under the Equality Act 2010. In making decisions under the provisions of the Bill they will need to have that equality duty in mind. In response to suggestions from stakeholders, this has been included as an issue which public authorities are explicitly required to consider when making decisions on asset transfer requests or participation requests. It may also be appropriate for public authorities to carry out an EQIA when developing policies in relation to the provisions of the Bill, for example on provision of allotments or asset transfer.

Human Rights

109. The Scottish Government is satisfied that the provisions of the Bill are compatible with the European Convention on Human Rights.

Amendments to Part 2 of the Land Reform (Scotland) Act 2003 (sections 27 to 47)

110. The Scottish Government acknowledges that the community right to buy provided for by Part 2 of the 2003 Act engages Article 1 of Protocol 1 as it constitutes a “control of use” of property. The rights under Article 1 of Protocol 1 are not absolute and the use of property can be controlled where it is in accordance with law, justified in the public interest and is proportionate.

111. The extension of the community right to buy to urban areas provided for by section 27 will engage Article 1 of Protocol 1 as it extends the “control of use” to urban land. However, this can be justified by reference to the public interest, as the benefits of community ownership have been shown to apply to urban as well as rural land. The process which is provided for in Part 2 strikes a fair balance between the public interest in community ownership and the rights of the landowner. The amendments made by sections 28 to 47 to Part 2 do not interfere with this balance and we therefore consider them to be compliant with Article 1 of Protocol 1.

112. Article 6 provides a right to a fair hearing. It applies to proceedings which constitute a determination of civil rights and obligations of the parties to the proceedings and any criminal charges. Part 2 of the 2003 Act provides sufficient safeguards and procedures to protect the Article 6 rights of the individual. The amendments made by sections 28 to 47 to Part 2 provide safeguards where appropriate.

Abandoned and neglected land (section 48)

113. The Scottish Government acknowledges that the ability of a community body to purchase land without the agreement of the owner of that land, provided for by section 48, will engage Article 1 of Protocol 1 as this will constitute a deprivation of property. However, the rights under Article 1 of Protocol 1 are not absolute and may be interfered with if this can be justified in the public interest, is proportionate and is in accordance with the law. Section 48 does not deprive any person of property but provides a process whereby Ministers may consent to an application by a community body which would result in a land owner being required to transfer land to the community body. Section 48 makes provisions pursuing the legitimate aim of sustainable development of land, and the process provided for this right to buy pursues this aim proportionally and strikes a fair balance between the general community interest and the protection of land owners’ fundamental rights. The provisions are, therefore, either compatible with Article 1 of Protocol 1 or capable of being exercised in a manner that is so compatible.

114. Article 6 concerns the right to a fair hearing. This provides that in the determination of a person's civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Section 48 provides for adequate and appropriate rights of appeal in relation to the community right to buy neglected and abandoned land.

Allotments (Part 7)

115. The Scottish Government acknowledges that certain provisions within Part 7 of the Bill engage Article 1 of Protocol 1. In particular, the power of local authorities to remove unauthorised buildings and structures from allotments and allotment sites at section 80 amounts to a deprivation of property. However the rights under Article 1 of Protocol 1 are not absolute and may be interfered with if such interference is justified in the public interest, proportionate and in accordance with law. Section 80 does not of itself deprive any person of property. It provides a process for local authorities to follow where a building or structure contravenes regulations, including notice to the tenant and an opportunity to be heard, the removal of the property being the final step in the process where resolution is not reached. This interference can be justified in the public interest in keeping land available for community growing, including allotments. It strikes a fair balance between this public interest and the rights of tenants. The Scottish Government therefore considers this provision to be compatible with Article 1 of Protocol 1.

116. Article 6 provides that in the determination of a person's civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Section 80 provides adequate and appropriate rights of appeal against any decision of a local authority to remove a building or structure.

117. Sections 83 and 84, providing for termination of a tenant's lease of an allotment and resumption of land by local authorities, and section 90, providing for compensation for deterioration of allotments payable by a tenant, also engage Article 1 of Protocol 1 as deprivation of property. However, these can also be justified in the public interest and the provisions strike a fair balance between the rights of the tenant and the public interest. The Scottish Government considers these provisions to be compatible with Article 1 of Protocol 1. The provisions also provide sufficient safeguards and procedures to protect the Article 6 rights of the individual. Sections 89 and 91, which provide for compensation to allotment tenants in certain circumstances, also engage Article 6 and those provisions also provide sufficient safeguards and procedures to protect Article 6 rights.

118. Section 73 provides that local authorities must make regulations about the running of allotment sites in its area. This engages Article 1 of Protocol 1 as it will constitute a control of use of property. However, this is justified in the public interest in making land available for community growing, including allotments. The process set out in section 73 for making regulations strikes a fair balance between this public interest and tenants' rights. Section 73 provides sufficient safeguards and procedures to protect the Article 6 rights of the individual.

Island Communities

119. The Bill will apply to all communities across Scotland, including island communities. No differential impact on island communities is anticipated for the majority of the Bill provisions.

120. Some responses to the consultation highlighted that there can be a shortage of land available to local authorities for allotments in crofting areas, which include the three Islands authorities. A possible solution, suggested by one of those authorities, is for local authorities to work with other landowners and public service providers to discuss the possibility of allotment provision on their land.

Local Government

121. The Bill will directly impact on local authorities in carrying out their functions, and particularly in the planning, design and delivery of services. These impacts are set out in this Policy Memorandum and the other Accompanying Documents to the Bill.

122. The Bill has been developed in partnership with COSLA. A Reference Group on the Bill is co-chaired by the Minister for Local Government and Planning and Councillor Harry McGuigan, COSLA spokesperson on Community Wellbeing. COSLA also co-ordinated the arrangement of consultation events for local government officials and representatives during both consultations on the Bill. 36 local government bodies responded formally to the consultation on the Bill proposals.

Sustainable Development

123. A pre-screening report on the environmental impact of the Bill has been completed. This confirmed that the Bill will have minimal or no impact on the environment and, as such, is exempt for the purposes of section 7 of the Environmental Assessment (Scotland) Act 2005.

124. Individual proposals brought forward under the provisions of the Bill may have an impact on the environment. Whether proposals promote or improve “environmental wellbeing” is an issue which relevant authorities must consider in taking decisions on asset transfer or participation requests. When the Scottish Ministers consider an application for a right to buy under Part 3A of the Land Reform (Scotland) Act 2003 they must be satisfied that that approval is necessary for the sustainable development of the land. Where public authorities bring forward plans of their own they must consider whether a Strategic Environmental Assessment is required for those plans.

This document relates to the Community Empowerment (Scotland) Bill (SP Bill 52) as introduced in the Scottish Parliament on 11 June 2014

COMMUNITY EMPOWERMENT (SCOTLAND) BILL

POLICY MEMORANDUM

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