EQUALITY IMPACT ASSESSMENT - RESULTS

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Executive Summary

1.1 This Equality Impact Assessment (EQIA) has considered the potential impacts of the Land Reform (Scotland) Bill ('the Bill'), on the protected characteristics', under the Equality Act 2010 of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

1.2 There are a number of cross cutting provisions contained within the Land Reform (Scotland) Bill which will potentially impact positively on social justice outcomes, although these are not targeted specifically at any of the equalities groups.

1.3 The EQIA has not identified any Bill provision that would adversely impact on any equalities groups. No objection has been raised to the proposals from any group on the basis of an inequitable burden being placed on equalities groups and we do not envisage that the proposals will have a negative impact on the public sector equalities duty.
1.4 There are a number of provisions in the Bill which have the potential to impact positively on equalities groups, particularly in relation to the protected characteristics of age, disability and gender.

1.5 The Bill provisions identified by the EQIA that are most likely to impact positively on equalities groups are contained in Part 5 and Part 10 of the Bill. For example, the agricultural holdings provisions of succession, assignation, amnesty on tenant's improvements and new letting vehicles, are expected to impact positively on equalities groups. The positive impacts that these proposals will potentially have are discussed in more detail in the 'key findings' section of this document.

1.6 As a result of the EQIA not identifying any adverse impacts to equalities groups, it is not considered that any changes to the Bill provisions are necessary, following the assessment.
Background

2.1 Scotland’s land, and many of those that own and manage land in Scotland, are already delivering significant benefits. The Scottish Government’s vision is for a stronger relationship between the people of Scotland and the land of Scotland, where ownership and use of the land delivers greater public benefits through a democratically accountable and transparent system of land rights.

2.2 The Scottish Government believes that on-going, ambitious land reform will help to increase the contribution of Scotland’s land to sustainable economic growth, which is at the heart of the Scottish Government’s purpose. Land reform also has the potential to empower greater numbers of people and, over time, to change patterns of ownership in Scotland to ensure a greater diversity of ownership, greater diversity of investment and greater sustainable development.

2.3 The Land Reform (Scotland) Bill is a key component of the Programme for Government for 2014-2015 and the Scottish Government’s stated desire to pass power to our communities and people. As such the Bill forms part of the Scottish Government's on-going programme of Land Reform and aims to ensure greater transparency and greater diversity of land ownership in Scotland.

2.4 The proposals contained in the Bill aim to:

• Ensure the development of an effective system of land governance and on-going commitment to land reform in Scotland;

• Address barriers to furthering sustainable development in relation to land and improve the transparency and accountability of land ownership; and

• Demonstrate commitment to effectively manage land and rights in land for the common good, through modernising and improving specific aspects of land ownership and rights over land.

2.5 The specific proposals contained in the Bill and their aims are outlined below:

(i) Requiring the Scottish Ministers to publish a Land Rights and Responsibilities Statement. The first statement must be published and laid before the Scottish Parliament 12 months after commencement of that part of the Bill and must be updated every five years thereafter.

(ii) Establishing a Scottish Land Commission to support the work of five Land Commissioners, who will conduct research, gather evidence, consider and make recommendations on policies and laws relating to land in Scotland. The Land Commission will also support the work of a new Tenant Farming Commissioner to take on a specific role in relation to agricultural tenancies;
(iii) Information about land - (a) Taking a regulation making power that will allow individuals to apply for a requesting body to require the disclosure of certain information on a proprietor or tenant of land in Scotland, to be disclosed on a case by case basis, where the lack of the information can be shown to be having an adverse effect and (b) Taking a regulation making power to allow for provision of additional powers to the Keeper of the Registers of Scotland to request disclosure of certain types of information relating to proprietors and tenants of land, including information on individuals with a controlling interest in land.

(iv) Placing a duty on Scottish Ministers to provide for guidance for landowners and tenants on engaging communities in decisions relating to land.

(v) Providing a Right to Buy Land to Further Sustainable Development: to provide Scottish Ministers with the power to consent to the transfer of land to a community body, or a nominated person, where the transfer is likely to deliver significant benefit, remove or prevent significant harm and further sustainable development, and where only the transfer of the land will resolve those issues.

(vi) To reintroduce non-domestic rates (referred to as business rates) on shootings and deer forests, so that they are rated as per arrangements that apply to most other non-domestic properties. The measure will also raise additional revenue to support Scottish Government budgets.

(vii) Further modernise Common Good legislation by removing the need for private legislation where a council wishes to change the use of common good land, this will enable local authorities to ensure that common good land is put to the best use for local people.

(viii) To provide for a range of additional powers to Scottish National Heritage to be available as interim measures to help ensure appropriate deer management, pending consideration of the conclusions of a further review scheduled in 2016.

(ix) Make further amendments to improve and clarify current provisions on public rights to access land, including to clarify and simplify the core path planning process and amend notification procedures for applications to the Sheriff Court to determine the existence and extent of access rights to allow for notification of all relevant parties interested in exercising access rights.

(x) To take forward much needed reforms to Agricultural Holdings legislation, identified by the AHLRG, to improve relationships, re-dress imbalances, and to provide tools to help the industry begin to move forward by;
o Modern Limited Duration Tenancies – providing a modern limited duration tenancy as an option for future agricultural tenancies to replace the existing limited duration tenancy option set out in the Agricultural Holdings (Scotland) Act 2003.

o Conversion of 1991 Act tenancies into modern limited duration tenancies – taking regulation making powers to allow Scottish Ministers to make provision for a 1991 Act tenant farmer to convert their 1991 Act tenancy into a modern limited duration tenancy to be assigned on the open market.

o Tenant’s Right to Buy – removing the requirement for a tenant to register their interest in purchasing their holding, with the Registers of Scotland, under the existing Right to Buy provisions in the Agricultural Holdings (Scotland) Act 2003. This right will now become automatic when a landlord decides to sell their land.

o Sale to tenant or third party where landlord is in breach of an order or award – introducing a new provision to the Agricultural Holdings (Scotland) Act 2003 to enable a tenant of a 1991 Act tenancy to apply to the Scottish Land Court to order the sale of the land comprising the holding, where the landlord is persistently failing to meet their obligations under the tenancy and where this is affecting the tenants ability to farm in accordance with the rules of good husbandry.

o Rent review – making amendments to simplify and improve the process for triggering and carrying out a rent review for certain agricultural tenancies and change the way the Scottish Land Court is required, on application, to determine rent for those tenancies by moving away from consideration based predominantly on an ‘open market’ calculation to one based on a ‘fair rent’ taking into account the agricultural productivity of the holding, based on the fixed equipment provided by the landlord, any surplus residential accommodation, and any diversified activity on the holding.

o Assignation of, and succession to, agricultural tenancies - to widen the class of people to whom a tenant farmer can assign their tenancy and to whom they can leave their tenancy upon death; to simplify the ways in which a landlord can object to a potential assignee or successor to the tenancy.

o Compensation for Tenant’s Improvements – new provisions to provide for an amnesty period during which a tenant may serve formal notice on the landlord of their intention that, specific items, not currently agreed as tenants improvements, are to be considered tenants improvements for the purposes of establishing the tenant’s right to compensation at eventual waygo.

o Improvements by Landlord – new provision to provide a right for tenants to object to certain improvements proposed by the landlord if the tenant feels that it is not necessary to enable the tenant to fulfil the tenant’s responsibilities to farm in accordance with the rules of good husbandry.
The Scope of the EQIA

3.1 The Bill has been developed with colleagues from within the Scottish Government and with external stakeholders. Contributions to the EQIA were received from policy colleagues across the Scottish Government and informed by a public consultation, the work of two Review Groups; an extensive programme of research for the agricultural holdings provisions and an analysis of existing data sources.

1. Land Reform Review Group

3.2 The Land Reform Review Group (“the LRRG”), was an independent review group established by the Scottish Government in 2012 to investigate, among other things, how land reform can enable greater diversity of land ownership and assist in the development of stronger, more resilient and independent communities. As part of their evidence gathering, the LRRG undertook a programme of meetings and visits to collect evidence and views of people and communities across Scotland. By January 2013, 484 submissions had been received, as a result of the Group’s call for evidence.

3.3 The LRRG commented in their final report about the importance of their recommendations for social justice, although there is nothing specific about protected characteristics; more that their range of recommendations will be beneficial in addressing a range of social justice issues and for society in general.

2. Agricultural Holdings Legislation Review Group

3.4 In 2013 the Agricultural Holdings Legislation Review Group (AHLRG), chaired by Richard Lochhead MSP, Cabinet Secretary for Rural Affairs, Food and the Environment was established. The Review Group’s aim was to deliver a comprehensive package of recommendations for legislative change, fiscal and policy measures to achieve Scottish Government’s vision for a vibrant and sustainable tenant farming sector.

3.5 The work of the AHLRG comprised an extensive information gathering exercise including a ‘call for evidence’ stakeholder engagement phase. As part of this evidence gathering, the Review Group received 100 written submissions and these have been included in the EQIA analysis.

3. Scottish Government commissioned research

3.6 The AHLRG’s work was supported by an extensive research programme commissioned by the Scottish Government, to develop an evidence base to support policy development, including:
• A review of existing evidence on the level and type of tenure arrangements and changes in types of tenure and the reasons for change since 1982;
• A survey of agricultural tenants and one of landlords, on the nature of agricultural land tenure in Scotland and their views and experiences on key issues affecting the sector;
• A survey of owner occupiers examining their views on renting out land and the future of the tenancy sector; and
• A tenant and landlord survey on the views of tenant farmers and their landlords on issues such as rent reviews, fixed equipment, diversification and waygo.

3.7 These surveys and evidence review were key reference points for the AHLRG in developing their recommendations, and from an equalities perspective collected information on the protected characteristics of age, gender and disability.

4. Other data sources on Agricultural tenancies

3.8 The Scottish Government collect data through four major surveys of farmers including tenant farmers:

(i) the June agricultural census of agricultural holdings (annual).
(ii) the December Agricultural survey (annual)
(iii) the European Farm Structure Surveys (which occurs every three to four years).
(iv) the Farm Accounts Survey (an annual sample of around 500 farm businesses).

3.9 Some information relating to age and gender, including input into the farming business is collected in these surveys.

5. The Consultation

3.10 The range of proposals contained in the Bill were informed through a public consultation, which ran from December 2014 to February 2015. A summary and full analysis of the consultation responses were published on the research pages of the Scottish Government website in May 2015.

3.11 As part of the consultation exercise, respondents were asked to list any potential impacts, either positive or negative, that any of the proposals for the Bill might have on particular groups of people, with reference to the "protected characteristics" listed above.
Key Findings

1. Key findings from the public consultation

4.1 There was a total of 1269 responses to the consultation, and most proposals received over 70 per cent support from respondents. The analysis indicated a high level of public interest and support for land reform and how land works for the people of Scotland.

4.2 Very few respondents provided views specifically in relation to people with protected characteristics, or other specific characteristics, with a more common view being that these groups’ experiences would not differ from those of the general population.

4.3 However, a dominant theme was that positive impacts on particular groups, individuals and communities was there to be had, but only if the potential recipients were equipped to engage with the processes proposed in the Bill and were supported to take up the opportunities on offer. Some respondents considered that training and support for local people will need to go hand-in-hand with implementation of the proposals.

4.4 A number of those respondents who mentioned equalities groups outlined what they perceived to be the potential benefits of the proposals in the Land Reform Bill.

4.5 Others stated that the Scottish Government need to ensure they are being inclusive in their development of the proposals for the Bill.

4.6 Specifically, the 'protected characteristics' of age, disability and race were referred to. The following comments were made:

A) Age
• Younger people were highlighted as potential beneficiaries through increased local employment opportunities and potentially lower land prices leading to more affordable housing.
• Proposals have the potential to reduce social isolation which would benefit elderly people in the community.

B) Disability
• Higher local tax income generated from taxing sporting businesses could be used to support people in the community requiring physical or mental health care.
The Scottish Government need to ensure that there are no negative impacts on those with mobility issues whilst revising proposals for public access.

C) Ethnic minorities

- It is important that travellers needs are understood so that they are able to access the potential benefits of the reforms.
- Efforts should be taken to ensure that ethnic minorities within local communities are not excluded due to communication barriers.

2. Key findings from the LRRG and the AHLRG reports

LRRG Report

4.7 The Review Group's recommendations outlined in their final report are for reforms in the public interest which promote the common good of the people of Scotland. Some of the provisions being taken forward in the Bill have been developed in light of the recommendations of the LRRG. The intention is that these provisions will lead to better relationships between those who own land or have a controlling interest in land and the communities who live, work and play on that land. It is anticipated that the recommendations taken forward in the Bill, while not specifically targeting equalities groups, will further the empowerment of communities and help communities address the causes and consequences of inequality.

AHLRG Report

4.8 The AHLRG report raised a number of equalities issues related specifically to age and disability. It concluded that tenant farmers have an ageing demographic caused by an inability for older farmers to retire and an inability for younger farmers to access tenancies, and some of their recommendations, including regulation making powers to provide for the conversion of 1991 Act tenancies into modern limited duration tenancies that can be assigned, and modernised succession and assignation rights, are aimed at improving the demographic structure of tenant farming.

4.9 These recommendations, along with others contained in the final report are being taken forward in the Land Reform Bill and are described in more detail below in relation to equalities groups.

3. Key findings from commissioned research and other government farming surveys.

4.10 As discussed above, the work of the AHLRG was informed by an extensive research programme to inform the Review Group's thinking. Outlined below is the key evidence from this commissioned research regarding the characteristics of age, disability and gender on tenant farmers and landlords in Scotland. There is no regular Scottish Government data collected on gender reassignment, marriage and
civil partnership, pregnancy and maternity, race, religion or belief, or sexual orientation within the farming community, and there were no questions on these issues in the surveys.

Key Statistics

- **Age** - According to the survey data commissioned by the Scottish Government, three quarters of tenant farmers are aged over 50 years (74%), with a third aged over 65 years (33%). One in five (19%) tenant farmers are in the 40-49 age group, with just 7% aged under 40 years.

  Four out of five landlords who lease out agricultural land are aged over 50, with over a quarter aged over 70 (82% and 27% per cent respectively). Around one in ten are aged between 40 and 49 years, with one in twenty aged less than 40 years (13% and 5% respectively).

- **Disability** - The survey data revealed that 17 per cent of tenants and 20 per cent of landlords have a long term illness, disability or health problem (including problems due to old age) which limits the daily activities or work that they can do.

- **Gender** - Around 90% of tenant farmers who participated in the survey were male, while just over 80% of respondents who owned the land through an individual, family or partnership business were male.

4. Potential of Bill provisions to have a positive or negative impact on equalities groups

A) Land Reform Provisions in Parts 1 to 9 of the Bill

4.11 Social justice is about fairness and about ensuring that people can access the resources they need to provide their families with secure places to live, to engage in meaningful work and to contribute to society. Access to land plays a significant part in enabling that. Social justice is also about the finite resource of land being used to maximise public benefit.

4.12 As such, the overall Policy and many of the Bill provisions are very much in pursuit of social justice and, therefore, have the potential to impact positively on all groups in society, including on equalities groups, but we currently have limited evidence to state categorically on what groups and to what extent.

- **Land Rights and Responsibilities Statement**

4.13 There are many provisions in the Bill including the Land Rights and Responsibilities Statement which will promote on-going consideration of issues of land reform in Scotland. In complying with the proposed duty to publish a land rights and responsibilities statement, Scottish Ministers will consider the need to conduct further impact assessments on the content of the statement. Scottish Ministers hope
that such a statement will provide a valuable tool in taking positive measures to tackle inequality in Scotland.

- The Scottish Land Commission

4.14 The Scottish Government has taken full account of equal opportunities in considering the establishment of the Scottish Land Commission and developing the relevant provisions in the Bill. The Land Commission will oversee the work of five Land Commissioners and a Tenant Farming Commissioner. Section 9(1)(b) of the Bill places a duty on the Scottish Ministers to encourage equal opportunities, in particular the observance of the equal opportunity requirements, when appointing the Land Commissioners and the Tenant Farming Commissioner.

4.15 As part of their remit the Land Commissioners will be responsible for establishing a programme of work and part of this could involve research and consultation with stakeholders, including equalities groups, on a range of equalities issues in relation to ownership, use and access to land in Scotland.

- Information about Land

4.16 One of the aims of the Land Reform Bill is to provide greater transparency of information on the ownership, control and interest in land in Scotland. A clear understanding of patterns of land ownership, will enable a better understanding of issues of wealth inequality in relation to land and help develop policies to promote fair and equal access to land for those wishing to engage in land-based activities.

4.17 In developing these regulations, the Scottish Ministers will continue to consider potential equalities impacts and whether specific provision may be needed to address any potential disproportionate impact on equalities groups.

- Engaging communities in decisions relating to land and the right to buy land to further sustainable development

4.18 How land is used in a local area can have significant impacts on local communities. Where communities have been unable to influence development decisions and cannot access land for their own development, this can have detrimental impacts. Examples show that this can result in:

a) a lack of affordable housing or secure tenancies;

b) a lack of land for agricultural businesses;

c) a lack of community business space or access to property for business opportunities;

d) blight caused by declining appearance of buildings or land, or poor performance of local village/town centres; and
e) a lack of land for local food growing, recreation and access developments, or other amenities such as parks or cemeteries.

4.19 This Bill, therefore, proposes the production of guidance to increase engagement between communities and land owners as well as a right to buy land to further sustainable development. Fundamental to the latter is the identification of significant harm which is likely to affect the community if the land is not transferred, together with a likely significant benefit to the community if land is transferred to the community, and where only the transfer of the land will resolve those issues.

4.20 This is intended to be underpinned by better relationships between those who own land or have a controlling interest in land and the communities who live, work and play on that land. It is, therefore, anticipated that the Bill provisions will further the empowerment of communities and help communities address the causes and consequences of inequality.

4.21 Increased access to business opportunities and access to affordable housing in particular have the potential to impact positively on younger people who often find it difficult to access work and have access to affordable housing. Evidence shows that this a problem that particularly affects younger people in rural areas and is one of the driving forces of migration from rural areas as noted in Skerratt and Atterton, 2015.

- Changes to existing rights and responsibilities over land

4.22 Several of the Bill provisions are about making changes to existing wider policy areas and many of those wider policy areas will already have been subject to equalities impact assessments:

- Entry in valuation roll of shootings and deer forests

4.23 The Scottish Government does not have any data on the characteristics of occupiers of shootings and deer forests to provide analysis of the impact on equalities groups.

- Common good

4.24 The provision on common good will have no impact on equal opportunities as it will have no effect on individuals.

- Deer Management

4.25 The provisions on deer management plans will have no effect on equal opportunities. The provisions relating to deer panels will have a minor but positive effect in that it will promote the engagement of local people in deer management issues where this is of concern.
• Core paths

4.26 The provisions on access in the Bill are not considered to have any effect on equal opportunities, either positive or negative. While some statistics are available on general patterns of outdoor access relating to age and disability, there are no statistics available on the number and characteristics of people using core paths.

4.27 As a whole, the core paths system is intended to cater for all types of user (e.g. walkers, cyclists, horse-riders and people with disabilities) but not all core paths are designed or managed for every type of user. This may simply be impractical for paths that go over steep or rocky terrain.

4.28 Any exercise of powers under the provisions in this Bill on core paths by local authorities will require further consideration of equalities duties.

B) Agricultural holdings provisions

4.29 The following section will outline how these provisions have the potential to impact positively on the 'protected characteristics' of age, disability and gender.

1. Age

Background

4.30 Two of the fundamental problems facing the agricultural tenanted sector are the reluctance of tenant farmers to retire and the inability of new entrants to gain a foothold in the industry. A number of the agricultural holdings provisions in the Bill have the potential to impact positively on the protected characteristics of age (both older and younger persons). These provisions are assignation and succession, the introduction of a new letting vehicle (MLDT), conversion of a tenancy into an MLDT and amnesty at waygo for tenant’s improvements, each of which are discussed separately below.

• Assignation and Succession

4.31 The Bill proposes changes to assignation and succession law, with the overall aim of encouraging older tenants to retire or move on from tenancies with dignity and confidence in order to release land to younger tenants and ensure land continues in productive agricultural use.

Current situation

4.32 There are currently different rules about who the tenant can assign or bequeath their tenancy to or who is entitled to succeed on intestacy. There are also different rules relating to the objection process by the landlord, depending on the type of transfer, i.e. bequest, assignation or intestacy.
4.33 Succession rights in agricultural law currently restrict which family members are entitled to succeed upon the death of a tenant. This can sometimes prevent succession by members of the tenant’s wider family, including siblings, nieces, nephews etc., in cases where there is a son or daughter who does not wish to take on the tenancy or where the tenant farmer has no children. Some older tenants may have insufficient pension provision, having invested their spare capital directly in the holding and feel unable to release this capital through the waygo process. Many tenants also have a deep sense of personal commitment to the farm and to the local community. For many tenants, giving up the tenancy has both financial and emotional implications that may discourage retirement and work against wider interest of a sector in need of more land released to newcomers. In circumstances of significant under supply of tenanted land, it is in the public interest, as well as that of older tenants, that they should be encouraged to retire with dignity and confidence so as to release land to younger tenant farmers.

Changes proposed

4.34 The changes to succession and assignation law will impact positively on the protected characteristic of age (both older and younger) in the following ways:

4.35 The different rules relating to rights to assign and to succeed both though testate and intestate succession, and what grounds of objection apply in what cases have caused considerable confusion to tenant farmers and have resulted in a reluctance to engage in lifetime planning for succession of family farming businesses and to pass on the business to a family member (often younger). In some cases, this has resulted in older tenants deciding to keep the tenancies in their name and under their control much longer than they would have done otherwise. During their evidence gathering, the Review Group heard anecdotal evidence from a number of older tenants who were reluctant to pass the holding onto a younger family member because of concerns over the potential ability for the landlord to object/withhold consent and regain possession of the holding. This can be particularly frustrating to younger farmers where they would like to have had more authority and control, and to consider more modern agricultural and business practices that would have the potential to benefit the holding and the industry overall.

4.36 The proposed changes in the Bill to assignation and succession will provide clarification and alignment of the grounds for objection across the class of those entitled to assign or succeed under testate or intestate succession, thus encouraging retirement among older farmers and facilitating the entry of younger family members.

4.37 The Bill proposes to extend the definition of ‘near relative’ to include a larger number of the tenant’s family, including siblings, nieces and nephews; increasing the pool of people that a tenant can assign or bequeath his tenancy to or who can succeed on intestacy. Near relatives are afforded a greater deal of protection than non-near relatives, as the grounds of objection on which a landlord can object to a
near relative are restricted and this will now be consistent across bequests, intestacy and assignation. There is a strong rationale in the tenanted sector, due to the prevalence of family farming businesses, to ensure tenants are able to pass on holdings within the family. Therefore, the grounds for objection for the landlord in near relative circumstances across succession and assignation are narrower to allow for succession and assignation within family farming situations. The proposed changes in the Bill will increase the ability of a tenant farmer to transfer to immediate family members in the knowledge that the grounds of objection available to the landlord are restricted. It is strongly anticipated that this will encourage lifetime planning for succession and assignation of family farming businesses, encouraging tenant farmers to retire and pass on the business to a family member.

• New letting vehicles

4.38 The Bill proposes the introduction of a new letting vehicle, a Modern Limited Duration Tenancy (MLDT), which has a minimum length of 10 years. One of the features of this new tenancy type is the insertion of a break clause for new entrants to farming, the majority of which are younger farmers. The new provision enables either the tenant (new entrant) or the landlord, after a period of five years to review how the arrangement is going and gives either of them the option to end the lease agreement. Currently landlords might be nervous entering into relatively long term arrangements with new entrants due to their inexperience and this can result in them entering into shorter arrangements, such as yearly seasonal lets or Short Limited Duration Tenancies (5 years long). This can make it extremely difficult for new entrants to enter farming and to take up a lease that is long enough to make the investments necessary to start up an efficient farming business. This new letting vehicle, with the inclusion of a break clause is expected to significantly encourage landlords to enter into longer term arrangements with younger less experienced farmers, safe in the knowledge that they are not tied into a 10 year contract if the arrangement is not working. This will make it easier for new entrants to enter farming contracts and encourage them to make the necessary investments for efficient agricultural production.

• Conversion of a 1991 Act tenancy into an MLDT

4.39 The aim of this provision is to facilitate the retirement of 1991 Act tenants, and provide an alternative route for others needing or wishing to leave the sector, which will encourage movement in the sector and open up opportunities for new entrants. Providing a 1991 Act tenant with the opportunity to convert into an MLDT will enable the tenant to retire, or leave the tenancy, with dignity, while allowing family farming businesses to continue and/ or providing the tenant with a fair return on the tenant’s investment, ensuring land continues in productive agricultural use and remains within the tenanted sector.
4.40 Where a landlord is aware that a tenant wishes to retire and the tenant either has no eligible successor or does not wish to transfer the tenancy to an eligible successor, the landlord may simply decline to enter into an agreement. As part of the Review, the AHLRG heard anecdotal evidence of difficulties at the end of tenancies around landlords obstructing waygo and preventing older tenants from retiring. This can in some circumstances force the tenant who wishes to retire to give up the tenancy for no compensation, other than their way-go claim, thereby losing whatever was the value of their property right in the tenancy.

4.41 The survey results show that if a tenant was able to assign wider than a family member the preferred choice in 61% of those cases would be a new entrant or a current farm worker with a farm (who in many cases would also be classed as a new entrant), for 39% the preference would be a neighbour, neighbouring family or friend who currently runs the tenant's farm or another farm. Similar figures were identified where tenant farmers with eligible successors were asked to identify other potential non-eligible successors. Conversion and assignation therefore provides the tenant with an opportunity to retire, receive compensation and potentially assign to a new entrant.

- Amnesty for tenant's improvements

4.42 These provisions provide tenants with the opportunity to, over the 'amnesty period' seek clarification on what improvements are eligible for compensation when the time comes for the tenant to leave the tenancy.

This provision will encourage both business planning and succession planning on behalf of tenant farmers and landlords. This will enable older farmers and landlords to plan for retirement if they can enter discussions now and receive clarification about what compensation will be due at the end of the tenancy term.

2. Disability

4.43 The provisions of assignation, succession and conversion discussed above in relation to age have the potential to impact positively on the protected characteristic of disability. Although the primary driver and aim of these provisions is to facilitate retirement, they will also have the potential to help any tenant farmer with a disability and/ or ill health to leave a tenancy. This is particularly relevant as industrial accidents are more prevalent, and of greater severity, in agriculture than is the average in other industries.

4.44 Amnesty at waygo also has the potential to provide clarification to those tenant farmers with disability/ ill health to plan for retirement if they know which improvements they will be compensated for at waygo.
3. Gender

4.45 Although the tenancy may be in the name of one family member, usually the male head of the family, most businesses are family farming businesses where spouses play a significant role. A number of submissions to the AHLRG noted that current arrangements can have discriminatory consequences, and proposed that spouses should always have equal ability in terms of assignation and succession to pass on family businesses as their partner. The changes to succession and assignation law mean that a greater number of the tenant's spouse's family will be eligible to succeed to the tenancy.
Recommendations and Conclusion

5.1 There is no evidence available that the proposals contained in the Land Reform Bill will have an adverse impact on equalities groups. As outlined by this EQIA, there is the potential for some of the agricultural holdings provisions to have positive impacts on the protected characteristics of age, disability and gender. There is also the possibility that the right to buy land to further sustainable development provision could have positive impacts on the protected characteristic of age. As a result it is not considered that any changes to the provisions contained in the Land Reform (Scotland) Bill are necessary.

5.2 However there are a number of regulation making powers in the Bill and in developing the regulations, the Scottish Ministers will continue to consider potential equalities impacts and whether specific provision may be needed to address any potential disproportionate impact on equalities groups.

5.3 In addition, the Scottish Government will observe the equal opportunity requirements, when appointing the Land Commissioners and the Tenant Farming Commissioner.

5.4 Finally, the Scottish Government accepts that not all communities will be equally able to take advantage of the opportunities provided by the Bill, and there is a need to provide support and capacity building to help communities become more empowered. This is an issue to be addressed by all public authorities, including local authorities, as part of their wider support for communities. The Scottish Government will provide leadership and encourage public authorities to review the focus of their support activities. The Scottish Government has set up a Short Life Working Group to consider what support and structures are necessary to achieve the aim of million acres of land in community ownership by 2020. As part of this work consideration is being made of the support that is available to and required for communities considering community ownership. The Scottish Government also provides direct support, for example through the Strengthening Communities Programme which funds approaches to help community organisations become more sustainable and resilient and enhance their capacity, and through measures to enhance community learning and development. By delivering the services and projects that have been identified by the community in helping it achieve its outcomes will make a real difference to people living in our most significant areas of disadvantage.