

13 November 2019

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Dear Malcolm

Consultation on Land Reform (Scotland) Act 2003 Part 1: revised guidance for local authorities and national park authorities

Ramblers Scotland welcomes the opportunity to respond to this consultation. We are the representative body for walkers in Scotland, recognised by **sportscotland** as a governing body of sport. We help everyone, across Scotland, enjoy walking and protect the places we love to walk. We are a membership organisation with 54 local walking groups in Scotland, running 3,500 group walks a year which are led and organised by 1,200 volunteers.

In general terms we are very pleased to see this comprehensive revision of the guidance and particularly support the way it is able to take account of access authorities' 15 years of experience in implementing the legislation.

We have a number of minor comments to make:

s.6(1)(f) – on p16 there is reference to Dalkeith estate where it is stated that the 90-day rule has been confirmed to apply. However, our understanding is that this is not as clear cut as suggested and the facts of the charging regime at Dalkeith country park are contested by the estate/local residents. The estate asserts that everyone was charged for access throughout the estate for at least 90 days each year since 2001. However, local residents suggest that there were plenty of free entry points to the estate until the recent development of a retail area, and until these were closed off they were able to freely access the country park throughout the year. While horse riders appear to have been charged, so did visitors to the (now demolished) adventure playground. To add to the confusion, gates in the Midlothian side of the country park were locked but the main entrance from East Lothian has remained unlocked at all times. In summary, this is a confusing situation and we would recommend removing reference to this estate. We believe this situation does apply to Hopetoun House, where an entry fee to the house and gardens is charged in the summer, although there is public access to the wider policies throughout the year.

s.10 – we appreciate that the 2005 guidance was written before the Act had come into effect, but we are disappointed that the requirement for SNH to promote understanding of the Code at a national level has been modified to be to in relation to targeted national guidance as well as simply to promote and publicise the Code, rather than to promote understanding of it. We believe that public understanding of the three core principles of the Code is not high and it is necessary to continue to carry out national educational communications on the Code alongside the important targeted guidance.

s.13 – we welcome the reference to the use of mediation here and in later sections (s.25, s.28).

s.14 – we are pleased to see the inclusion of useful examples of what has normally been taken into account in carrying out their roles in specific sections of the Act, such as p47 which sets out examples of what has been deemed to constitute an obstruction. We are also pleased to see links to the Drumlean case in the same section.

s.16 – we suggest there could be an additional paragraph here to reference Part 5 of the Land Reform (Scotland) Act 2016, which confers a right to buy land to further sustainable development on communities. While this is separate legislation, we are only aware of one use of s.16 by any access authority, and yet we believe there are many instances across Scotland where path development has been stymied by the refusal of landowners to either negotiate a path agreement across their land or sell their land to the path developer so that this can be done. We understand access authorities are reluctant to serve compulsory purchase orders, yet it may be appropriate for local community groups to do so under the 2016 legislation in order to create local path networks. The authority may well have been involved in previous discussions between the community group and the landowner, and able to advise both parties.

s.17, para on p61 Multi use of core paths – we note that this wording is the same as in the original guidance document, but we are surprised to see the sentence “*However, if a path has non-natural constraints preventing multi-use ... then that path should generally not be a core path*” as it does not appear to take into account the experience of core paths planning to date. For example, we are aware that national park authorities have designated core paths up Ben Lomond and The Cobbler and through the Lairig Ghru which are not suitable for all abilities. We acknowledge that the paragraph states that the network as a whole should provide for the needs of all users as far as possible, but suggest that this paragraph in italics above is modified to reflect what has happened in practice in terms of the types of individual paths which are designated core paths. We have concerns that in future years access officers coming into post may be led to believe that all core paths should be multi-use and this would affect the quality of the experience for walkers and other users if this were the case in future iterations of core paths plans.

s.25 – we are pleased to see the additional paragraph on p95 which states that the access authority must ensure the continued functioning of the Local Access Forum for its area. We are aware that many LAFs are not functioning well in many areas, or indeed do not exist at all, due to lack of support from the access authority and hope this reminds them of the statutory status of LAFs.

We hope the comments above are useful and would be happy to discuss them further.

Yours sincerely

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