

**Report To: Environment and Regeneration  
Committee**

**Date: 31 October 2019**

**Report By: Corporate Director, Environment,  
Regeneration and Resources**

**Report No:  
E&R/19/10/05/SJ/AH**

**Contact Officer: Ash Hamilton  
Policy Planner**

**Contact No: 01475 712463**

**Subject: Consultation on Land Reform (Scotland) Act 2003 Part 1: Draft Revised  
Guidance for Local Authorities and National Park Authorities 2019**

---

## **1.0 PURPOSE**

1.1 The purpose of this report is to advise the Committee of the Scottish Government's consultation on the Land Reform (Scotland) Act 2003 Part 1: Draft Revised Guidance for Local Authorities and National Park Authorities and to seek approval of the Council's response.

## **2.0 SUMMARY**

- 2.1 The Land Reform (Scotland) Act 2003, as amended (the 'Act 2003'), established statutory public rights of non-motorised access to land for recreational and other purposes, and made provision under which bodies representing rural and crofting communities may buy the land with which those communities have a connection.
- 2.2 Part 1 of the Act 2003 sets out the statutory duties, responsibilities and powers of local authorities and national park authorities in relation to the provision and promotion of the rights of access established in in the Act 2003.
- 2.3 In 2005, the Scottish Ministers issued Guidance to Local Authorities to assist with the delivery of their functions under Part 1 of the Act 2003. Local Authorities are required to have regard to this guidance under section 27(3) of the Act 2003.
- 2.4 The Scottish Government revised this Guidance to Local Authorities in 2019 and published it in draft form for consultation. The Council's consultation response is set out in section 5 of this report. It is considered that the draft guidance is a timely and useful update because it advises on the amendments made to the Act 2003 through the Land Reform (Scotland) Act 2016 (the 'Act 2016') and provides practical help based on the lessons learned in implementing Part 1 of the Act 2003 over the 14 years since it came into force.

## **3.0 RECOMMENDATIONS**

- 3.1 It is recommended that the Committee approves the Council's consultation response which is set out in Section 5 of this report.

**Scott Allan, Corporate Director  
Environment, Regeneration and Resources**

## **4.0 BACKGROUND**

- 4.1 The Act 2003, as amended, established statutory public rights of non-motorised access to land for recreational and other purposes, and made provision under which bodies representing rural and crofting communities may buy the land with which those communities have a connection.
- 4.2 Part 1 of the Act 2003 sets out the statutory duties, responsibilities and powers of local authorities and national park authorities in relation to the provision and promotion of the public right of access.
- 4.3 In 2005, the Scottish Ministers issued guidance to local authorities to assist with the performance of their functions under Part 1 of the Act 2003, entitled 'Part 1 Land Reform (Scotland) Act 2003: Guidance for Local Authorities and National Park Authorities'. Local Authorities are required to have regard to this guidance under section 27(3) of the Act 2003.
- 4.4 The Scottish Government revised this guidance in 2019 in order to reflect amendments made to Act 2003 by the Act 2016, and to take account of lessons learnt about the operation of Part 1 of the Act 2003 over the fourteen years since it came into force.
- 4.5 On 16 August 2019, the Scottish Ministers issued 'Land Reform (Scotland) Act 2003 Part 1: Draft Revised Guidance for Local Authorities and National Park Authorities 2019', to local authorities, who have until 16 November 2019 to respond to the consultation.

## **5.0 INVERCLYDE COUNCIL - DRAFT CONSULTATION RESPONSE**

- 5.1 Following consideration by the relevant officers within the Council's Regeneration and Planning and Legal and Property Services, who have responsibility for delivering the Council's duties under the Act 2003, and after discussion with the Local Access Forum, a draft consultation response is set out below:
- 5.2 *Inverclyde Council considers that the 'Land Reform (Scotland) Act 2003 Part 1: Draft Revised Guidance for Local Authorities and National Park Authorities 2019' is a timely and useful update.*

*We welcome the addition of guidance on the amendments made to the Act 2003 through the Act 2016, such as the procedural changes to the amendment of Core Paths Plans, and through the Land Reform (Scotland) Act 2003 (Modification) Order 2013, such as the temporary prohibition or restriction of access rights under the terms of a section 11 Order.*

*We consider the revised guidance to be particularly helpful as it incorporates the lessons learned through the application of Part 1 of the Act 2003 over the previous 14 years. For example, the additional guidance on the content and serving of a Written Notice is partly based on respective court case judgements in 'Aviemore' and Stronardron, Glendaruel, Argyll".*

## 6.0 IMPLICATIONS

### Finance

6.1 There are no financial costs arising from this report.

#### Financial implications

##### One-off Costs

Cost Centre	Budget Heading	Budget Year	Proposed Spend this Report	Virement From	Other Comments
n/a	n/a	n/a	n/a	n/a	n/a

##### Annually recurring costs/(savings)

Cost Centre	Budget Heading	Budget Year	Proposed Spend this Report	Virement From	Other Comments
n/a	n/a	n/a	n/a	n/a	n/a

### Legal

6.2 There are no legal implications arising from this report, in addition to those already established through the Act 2003, as amended.

### Human Resources

6.3 There are no personnel issues arising from this report.

### Equalities and diversity

6.4 There are no equalities and diversity issues arising from this report.

### Repopulation

6.5 There are no repopulation issues arising from with this report.

## 7.0 CONSULTATIONS

7.1 The Council's Head of Legal and Property Services has been consulted on this report.

## 8.0 LIST OF BACKGROUND PAPERS

8.1 Land Reform (Scotland) Act 2003 Part 1: Draft Revised Guidance for Local Authorities and National Park Authorities 2019.