

## Land Reform in a Net Zero Nation – consultation response

September 2022

Mountaineering Scotland appreciates the opportunity to comment on this consultation. Our comments relate to the proposals that are relevant to our organisation's aims and interest.

Mountaineering Scotland is a membership organisation with more than 15,000 members and is the only recognised representative organisation for hill walkers, climbers, mountaineers and ski-tourers who live in Scotland or who enjoy Scotland's mountains. We represent, support and promote Scottish mountaineering, and provide training and information to mountain users for safety, self-reliance and the enjoyment of our mountain environment.

### Part 5: Strengthening the Land Rights and Responsibilities Statement

*Q4. We propose that there should be a duty on large-scale landowners to comply with the Land Rights and Responsibility Statement and its associated protocols. Do you agree or disagree with this proposal?*

AGREE

*Please give some reasons for your answer*

We agree that there should be duty to comply with and uphold the Land Rights and Responsibilities Statement. Although many landowners do observe the principles of the LRRS, a statutory duty would be a reminder to any who may disregard the principles of the LRRS of the value of land stewardship to civic society and the natural environment, thereby demonstrating the importance of public interest and accountability in the management of land.

Specifically, our interests lie with the rights and responsibilities of public access to land; the Good Stewardship of Land Protocol, paragraph (f), refers to statutory access rights and responsibilities.

We note recent reports in the media and directly from hillwalkers and climbers of obstructions and misleading signage, which does not comply with the Scottish Outdoor Access Code. Resource allocation for upholding public access rights and responsibilities is variable across the Access Authorities, with the consequence that in some areas obstructions and misleading signage is not dealt with, sending a message that Part 1 of the Land Reform (Scotland) Act 2003 may be disregarded without consequence.

A statutory duty that provides clear direction on responsibilities as well as rights would be helpful to all.

*Q5 If there was a legal duty on large-scale landowners to comply with the Land Rights and Responsibility Statement and its associated protocols, we propose that this should be enforced by having a formal procedure for raising complaints, and by making provisions for independent adjudication and enforcement.*

*a) Do you agree or disagree with the proposal above?*

AGREE

*Please give some reasons for your answer*

We agree that a formal process would be helpful in discussing compliance and routes to achieve it.

*b) Do you agree or disagree that only constituted organisations that have a connection to the local area or the natural environment should be able to report breaches of the Land Rights and Responsibility Statement?*

DISAGREE

*Should these constituted organisations have a remit on:*

- *Community Agree*
- *Charity Agree*
- *Public service Agree*

*Please provide some reasons for your answers and any additional suggestions:*

We agree that constituted organisations be enabled to report breaches of the LRRS but we disagree with this specific wording. Our opinion is that constituted recreational groups also be included in this proposal, and that the connection to the local area includes communities of interest and participation as well as communities of place. Recreational users may value a place as much, but in a different way, to local residents.

*c) Do you think the responsibility for investigating and dealing with complaints should sit with:*

- *the Scottish Government Yes*
- *a public body (such as the Scottish Land Commission) Don't know*

*d) Should the potential outcome from an investigation of a breach be:*

- *Recommendation for a mediation process Yes*
- *Recommendation on how the landowner or governing body could comply with the Codes of Practice/protocols Yes*
- *A direction to the landowner or governing body to implement changes to operational and/or management practices Yes*

*e) Should the enforcement powers for a breach be:*

- *Financial penalties Don't know*
- *'Cross-compliance' penalties Don't know*

*Please provide some reasons for your answers and any additional suggestions:*

Our opinion is that some form of sanction be given out for enforcement. Whether it is financial or through cross compliance penalties is an operational detail with which we do not have sufficient knowledge to comment. If there is an obvious obstruction to public access, whether through physical obstruction or through misleading signage, then if the landowner is in receipt of public funding then our opinion is that a proportionate amount may be deducted as an enforcement sanction.

*Q6. Do you think the proposal to make the Land Rights and Responsibility Statement and its associated protocols a legal duty for large scale landowners would benefit the local community?*

Yes

*Please give some reasons for your answer*

Management of land brings intangible benefits to local residents and visitors as well as a wider economic benefit, intangibles like health and well-being and cultural association which are difficult to quantify.

*Q7. Do you have any other comments on the proposal to make the Land Rights and Responsibility Statement and its associated protocols a legal duty for large-scale landowners?*

Public access can have economic benefits to estates and their local communities, and despite what some land holders may perceive, access to the land raises public awareness and enjoyment of the natural environment and protection of the landscape, to the benefit of all.

## **Part 6: Compulsory Land Management Plans**

*Q8. We propose that there should be a duty on large-scale landowners to publish Management Plans. Do you agree or disagree with this proposal?*

AGREE

*Please give some reasons for your answer:*

We agree with this proposal. Large scale landowners can have a significant effect on Scotland's landscapes, flora and fauna, and a management plan can demonstrate good stewardship of the land, as well as intentions of how the land may develop in the future, especially in relation to climate change mitigation and adaptation. Changes in land use may have an impact on recreational access and public notice of this may deflect unintended consequences in the present and in the future.

*Q9. How frequently do you think Management Plans should be published?*

We have no view on timescale, but should be meaningful in land management terms while looking beyond a short-term political and funding cycle. There will need to be one produced soon after a landholding changes ownership, to make clear if there are any changes on land use objectives.

*Q10. Should Management Plans include information on:*

- *Land Rights and Responsibility Statement compliance* Yes
- *Community engagement* Yes
- *Emission reduction plans* Yes
- *Nature restoration* Yes
- *Revenue from carbon offsetting/carbon credits* Don't know
- *Plans for developments/activities that will contribute to local and inclusive economic development or community wealth building* Yes

*Please provide some reasons for your answers and any additional suggestions*

An additional suggestion is to illustrate in the Management Plan recreational access features within the landholding: established routes both formal and informal, preferred car parking areas, gates, lines of fencing and stiles. This could also assist with future design of new woodlands, peatland restoration and other land management practices where recreational access is designed into new features, like firebreaks and fencelines.

*Q12. Do you think the proposal to make Management Plans a legal duty for largescale landowners would benefit the local community?*

Yes

### **Part 8: New conditions on those in receipt of public funding for land based activity**

*Q27. We propose the following eligibility requirements for landowners to receive public funding from the Scottish Government for land based activity:*

- i. All land, regardless of size, must be registered in the Land Register of Scotland.*
- ii. Large-scale landowners must demonstrate they comply with the Land Rights and Responsibility Statement and have an up to date Land Management Plan.*

*Do you agree or disagree with these requirements?*

*a) Requirement i. Agree*

*b) Requirement ii. Agree*

*Please give some reasons for your answers:*

We agree with these proposals. It can be challenging to find contacts for land ownership when there are access matters that need discussing, like obstructions or other matters that don't comply with SOAC, such as signage, and also for suggestions to improve access and reduce environmental impacts from recreational activities.

*Q28. Do you have any other comments on the proposals outlined above?*

Our opinion is that if there is evidence of non-compliance with the law on access, then landowners in receipt of public funding should be required to return an appropriate proportion of it.

