

LAND REFORM (SCOTLAND) ACT 2003

EXPLANATORY NOTES

THE ACT – AN OVERVIEW

Part 1 Access Rights

Section 3: Reciprocal obligation of owners

12. This section places a reciprocal requirement on owners of land in respect of which access rights are exercisable to act responsibly in using and managing the land or otherwise conducting their ownership of it.
13. Subsection (2) makes provision for determining whether an owner is acting responsibly. The presumption is that an owner is acting responsibly if that owner is not interfering unreasonably with the exercise of access rights over their land. Paragraph (a) goes on to provide that a contravention of sections 14(1) or (3) or 23(2) is to be treated as being irresponsible. These sections relate to actions undertaken for the purpose, or main purpose, of preventing or deterring the exercise of access rights; failure to comply with a notice in respect of such an action served by a local authority; and failure to give timeous notice to a local authority of the ploughing of a path, or failure to reinstate the path. In addition, contravention of any bylaw made under section 12(1)(a)(ii) is to be treated as being irresponsible. Paragraph (b) provides that regard will be had to whether the owner has disregarded guidance set out in the Access Code and incumbent on the owners of land.
14. Subsection (3) further clarifies what is meant by the reference to the use, management and conduct of the ownership of the land in a way, which is responsible.