



# Land Reform (Scotland) Act 2003

## 2003 asp 2

### PART 1

#### ACCESS RIGHTS

#### CHAPTER 5

##### LOCAL AUTHORITY FUNCTIONS: ACCESS AND OTHER RIGHTS

#### **22 Compulsory powers to delineate paths in land in respect of which access rights exercisable**

- (1) Where, in the circumstances set out in subsection (2) below, it appears to the local authority that, having regard to the rights and interests of the owner of land in respect of which access rights are exercisable and persons likely to exercise these rights, it is expedient to delineate a path within that land, the authority may, by order (a “path order”), do so.
- (2) These circumstances are that it appears to the local authority to be impracticable to delineate the path by means of a path agreement.
- (3) Where the local authority make a path order—
  - (a) delineating an existing path, they have the duty of maintaining it;
  - (b) delineating a new path, they have the duty of creating and maintaining it.
- (4) Regard may be had, in determining whether a local authority has control of a path for the purposes of the Occupiers' Liability (Scotland) Act 1960 (c. 30), to the duties imposed by subsection (3) above.
- (5) A path order may be revoked by the local authority.
- (6) A path order shall be in such form as is prescribed but shall contain a map showing the delineation of the path.
- (7) Where access rights—

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*Status: This is the original version (as it was originally enacted).*

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- (a) have, by virtue of any provision of this Part of this Act, not been exercisable over any land consisting of a public path created under sections 30 to 36 of the Countryside (Scotland) Act 1967 (c. 86); but
- (b) become exercisable over that land,

the public path creation agreement or the public path creation order or public path diversion order by which the public path was created shall, for the purposes of the exercise of access rights, be treated as a path agreement or, as the case may be, a path order.

- (8) Schedule 1 to this Act has effect for the purposes of providing further as to path orders.
- (9) In section 28 (interpretation) of the Land Registration (Scotland) Act 1979 (c. 33) in paragraph (g) of the definition of “overriding interest” (which paragraph provides that public rights of way etc. are overriding interests) there is inserted at the end “or in respect of the exercise of access rights within the meaning of the Land Reform (Scotland) Act 2003 (asp 2) by way of a path delineated in a path order made under section 22 of that Act”.