

LAND REFORM (SCOTLAND) ACT 2003

EXPLANATORY NOTES

THE ACT – AN OVERVIEW

Part 1 Access Rights

Section 28: Judicial determination of existence and extent of access rights and rights of way.

113. Subsection (1) allows persons to apply to the sheriff for a determination of whether access rights are exercisable over particular land, of whether persons exercising those rights are doing so responsibly or of whether the owner of land in respect of which access rights are exercisable is using, managing or conducting ownership in a responsible way.
114. Subsection (2) allows persons to apply to the sheriff for determination of whether any path or bridleway or other means of crossing land is or is not a right of way by foot, horseback, cycle or any combination of these.
115. In either case, the proceedings are those for an action of declarator initiated by summary application to the sheriff. The local authority must receive notice of an application and are entitled to be a party to the proceedings.
116. The procedures which govern such proceedings are to be supplemented by Rules of Court made in pursuance of subsection (8).
117. Subsection (9) makes clear that the remedies provided by this section do not preclude a person who may seek to use those remedies from pursuing any other judicial remedy which may be available to them in respect of rights and duties under Part 1.