

EQUALITY IMPACT ASSESSMENT - RESULTS

Title of Policy	Land Reform (Scotland) Act 2003 (Modification) Order 2013
Summary of aims and desired outcomes of Policy	<p>The Modification Order provides for core paths to be temporarily exempt from access rights where land is already able to be exempt from access rights:</p> <p>1) because of a notifiable animal disease</p> <p>Or</p> <p>2) by way of a section 11 order under the Land Reform (Scotland) Act 2003 (LRSA). This is usually brought in connection with events e.g. Commonwealth Games 2014, a golf tournament or car rally.</p> <p>For ease and convenience the exemption of core paths/land from access rights is sometimes referred to as closure.</p>
Directorate: Division: team	<p>Agriculture, Food and Rural Communities: Animal Health and Welfare: Exotic Diseases</p> <p>&</p> <p>Environment and Forestry: Natural Resources Division: Landscape and Involvement with the Natural Environment</p>

Executive summary

The EQIA process identified no equality issues. However, we have strengthened the guidance that goes with the Modification Order. Specifically, we have strengthened the alternative routes section of the revised statutory guidance, stating that access authorities should consider providing alternative routes to core paths during closure periods, for the same types of use as the core path caters for i.e. walking, cycling, equestrian and disabled.

Background

The Modification Order amends section 7(1) of the LRSA to provide for the exercise of access rights over core paths to be temporarily prevented where land is already able to be exempted from access rights:

1) because of a notifiable animal disease

Or

2) by way of a section 11 Order under the LRSA

As currently drafted section 7(1) of the LRSA does not allow for such closures.

Land closure because of a notifiable animal disease:

The Animal Health Act 1981 allows for the designation of some animal diseases as notifiable animal diseases, a designation normally used for animal diseases that can have serious economic or human health consequences. The same Act has provision for the introduction of secondary legislation allowing Ministers to prohibit or restrict access to areas of land surrounding premises where a notifiable animal disease has been confirmed. Access is temporarily restricted or prohibited to prevent further spread of the disease. The proposed amendment to section 7(1) enables the application of statutory powers by the Scottish Ministers to prohibit access to land to deal with an animal disease outbreak, to extend to core paths.

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Land closure for events:

Section 11 of the LRSA enables local authorities and national park authorities (“access authorities”), whether on application from third parties or on their own initiative, by order, to exempt a particular area of land and/or inland water from access rights.

At present there is no mechanism to enable temporary closure of core paths by section 11 orders. However it is recognised that on a limited number of infrequent occasions there may be legitimate reasons why an access authority might seek to close a core path temporarily. The proposed amendment means core paths can be temporarily exempt from access rights by way of a section 11 order.

The (Modification) Order 2013 contributes to the Scottish Government’s Greener Strategic Objective, which aims to improve Scotland’s natural and built environment and the sustainable use and enjoyment of it.

Internal contacts within Scottish Government who were involved in the EQIA were Natural Resources Division, Animal Health & Welfare Division, Equality Unit, and Rural and Environment Science and Analytical Services.

The Scope of the EQIA

Who will it affect?

Whilst there is information on the number and characteristics of people visiting the outdoors for recreation, there is none on the users of core paths. In addition, the two circumstances in which core paths may be closed under the provisions of this Modification Order are either unpredictable (outbreaks of notifiable animal disease) or relatively infrequent (section 11 Orders for events).

Land closure because of a notifiable animal disease:

Outbreaks of notifiable animal diseases are rare, and land closures are not always necessary when they do occur. Indeed, since the foot and mouth disease outbreak in 2001 there have been no outbreaks in Scotland that required the closure of land, and therefore of a core path. If land is closed, it will affect users or potential users of core paths within the prohibited area, which will normally be a zone with a radius of not less than 3 km and

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centred on the infected premises. A large outbreak may have a number of infected premises, and in those cases the zones where access is prohibited may be merged. Nonetheless, total area of land where access is prohibited is likely to be small relative to the countryside as a whole, and it may often be possible to circumvent those areas. It is not possible to accurately predict the size, location or nature of future animal disease outbreaks, consequently it is not possible to be more specific about the numbers or types of people who would be affected by the closure of core paths within a control zone.

Land closure for events:

The Scottish Government monitors the use of section 11 Orders to close land for events. In 2012/13, there were 43 section 11 Orders of which 41 were for under 6 days. The trend over the past 8 years shows that the number of section 11 Orders per annum has fluctuated between 41 and 61 since 2005/06, with the number of those for 6 days or more varying between 0 and 3. On the basis of this trend, we do not know how many future section 11 land closures will involve core paths. Looking to the future, we are aware that two high profile events in 2014, the Commonwealth Games and the Ryder Cup, will necessitate section 11 closures involving core paths, but beyond that the number of closures is not expected to be greater than in previous years.

Finally, whilst the core paths system as a whole is intended to cater for all types of user (eg. walkers, cyclists, horse-riders and people with disabilities) not all core paths will be designed or managed for every type of user. This may simply be impracticable for paths which go over steep or rocky terrain.

For all of these reasons, therefore, we cannot predict the number or characteristics of people who will be affected by this Order.

Data and Evidence Gathering

Land closure because of a notifiable animal disease:

To help inform the approach to land closure during an outbreak of a notifiable animal disease (particularly foot and mouth disease) the Scottish Government organised a workshop in June 2012. The workshop explored

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the practicalities of closing land in response to an animal disease, whether or not that closure was by either the Scottish Government (in the zones centred on infected premises) or by local authorities. The workshop was attended by representatives from National Access Forum, Government and other enforcement bodies (i.e. British Horse Society (Scotland); Cairngorms National Park Authority; Highland Council; Canoe Scotland; COSLA; East Lothian Council; Loch Lomond & The Trossachs National Park Authority; Lothian & Borders Police; National Farmers Union Scotland; Scottish Land & Estates, SportScotland, and Scottish Natural Heritage.)

No significant equality impacts were identified at that workshop. As mentioned earlier, it is not possible to accurately predict the size, location or nature of future animal disease outbreaks, consequently it is not possible to be more specific about the numbers or types of people who would be affected by the closure of core paths within a control zone.

Land closure for events:

The National Access Forum (NAF) advises on national issues linked to Scottish access rights. It is comprised of representatives of recreation, land management and other interests.

The Forum bodies are non-party political, have a national membership-based structure through clubs and/or individual members, and are both recognised and authoritative. The Forum also includes public bodies which have significant national roles in access and can represent the wider public interest. The Forum aims to be as open and participatory as possible and welcomes contributions from all bodies with an interest in national access issues.

Meetings bring together officials and stakeholders whose work will be affected by this Modification Order. The Modification Order (need / demand / drafting / associated guidance) was discussed at the 3-times yearly National Access Forum meetings on several occasions:

- 17 November 2010
- 16 February 2011
- 21 November 2012
- 5 March 2013

Meeting papers are available through this link:

<http://www.outdooraccess-scotland.com/access-forum/meeting-papers/>

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Statistical data was gathered from the Scottish Recreation Survey 2012, Scottish Natural Heritage commissioned report 427, Scottish Government access authority monitoring, Scottish Household Survey 2012, Social Focus on Disability, and further information was gathered by Forestry Commission Scotland, Paths for All, and the Scottish Outdoor Access Code.

There is little evidence of significant equalities issues but it was decided to explore this further by including the following paragraph in the consultation on the Modification Order:

"The Scottish Government is committed to considering equality in policy. If you consider there to be any potential equality issues in relation to the Land Reform (Scotland) Act 2003 (Modification) Order 2013 please make known your views by responding to the consultation."

Key Findings

The EQIA process identified no equality issues.

The Scottish Disability Equality Forum and Fieldfare Trust, who are corresponding NAF members, and a range of other specific equality groups, have been specifically invited to consider the impact of the Modification Order during the consultation period. None of them responded to the consultation, and none of the other respondents commented on equality issues.

While some statistics are available on general patterns of outdoor access relating to age and disability there are no statistics available relating to gender, gender reassignment, sexual orientation, race or religion and belief.

There are no statistics available on the number and characteristics of people using core paths.

Not all core paths are suitable for every type of user, for example the West Lothian Council core paths plan states that 70% of the network is suitable for cyclists, 35% of horse-riders and approximately 45% for less able users. However, few access authorities record information about the suitability of their paths network for different users.

Recommendations and Conclusion

We have strengthened the guidance that goes with the Modification Order. Specifically, we have strengthened the alternative routes section of the revised statutory guidance, stating that access authorities should consider providing alternative routes to core paths during closure periods, for the same types of use as the core path caters for i.e. walking, cycling, equestrian and disabled.

We hope to monitor use of section 11s on core paths. We already collect information on the number of section 11s for less than 6 days and 6 days or more. We hope to supplement this with information on how many of these closures include core paths, and where alternatives are provided.