Land Reform (Scotland) Act 2016

2016 asp 18

PART 9

ACCESS RIGHTS

Core paths

83 Core paths plans

(1) The Land Reform (Scotland) Act 2003 is amended as follows.

(2) In section 18 (core paths plan: further procedure)—

(a) in subsection (9), "(3) or" is repealed,

(b) in subsection (10), for "confirm" substitute " adopt ".

(3) In section 20 (review and amendment of core paths plan)—

(a) for subsection (1) substitute—

"(1) A local authority—

(a) must review the plan adopted under section 18 (or that plan as amended under this section or section 20C) if Ministers require them to do so,

(b) may review such a plan if they consider it appropriate to do so for the purpose of ensuring that the core paths plan continues to give the public reasonable access throughout their area.",

(b) for subsection (5) substitute—

"(5) On adopting the amended plan under subsection (4), the local authority must—

(a) amend the list of core paths compiled under section 18(8) to show the effect of the stopping up or diversion,

(b) keep the amended plan, any maps it refers to and the list available for public inspection and for sale at a reasonable price, and

(c) send a copy of each of those documents to Ministers.",

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(c) in subsection (7), for "Sections 17(3) and (4) and 18 above" substitute " Subsections (3) and (4) of section 17 ".

(4) After section 20 insert—

"**20A Review and amendment of core paths plan: further procedure**

(1) Where, following a review of a plan under section 20(1), the local authority consider that a plan should be amended, the local authority must—

(a) give public notice of the amended plan and any maps it refers to,

(b) make the original plan and the amended plan and any such maps available for public inspection for a period of not less than 12 weeks, and

(c) consult—

(i) the local access forum for their area,

(ii) persons representative of those who live, work, carry on business or engage (or would be likely to engage) in recreational activities on the land affected by the amendment to the plan,

(iii) Scottish Natural Heritage, and

(iv) such other persons as the local authority think fit,

in each case inviting objections and representations in relation to the amendment to the plan to be made to them within such period as they specify.

(2) If no objections are made or any made are withdrawn, the local authority must adopt the amended plan.

(3) If an objection is made and not withdrawn, the local authority must not adopt the amended plan unless Ministers direct them to do so.

(4) If, after complying with subsection (1), the local authority modify the amended plan, they must notify and consult such persons as they consider appropriate on the modified amended plan.

(5) Where an objection remains unwithdrawn, Ministers must not make a direction without first causing a local inquiry to be held into whether the amended plan (or, as the case may be, the modified amended plan) will, if adopted, fulfil the purpose mentioned in section 17(1).

(6) Ministers may, in any other case, cause such an inquiry to be held.

(7) Subsections (2) to (13) of section 265 (local inquiries) of the Town and Country Planning (Scotland) Act 1997 apply to an inquiry held under subsection (5) or (6) as they apply to one held under that section.

(8) Following the publication of the report by the person appointed to hold the inquiry, Ministers may (but need not) direct the local authority to adopt the amended plan (or, as the case may be, the modified amended plan) either as drawn up under section 20 or with such modification as Ministers specify in the direction.

(9) On adopting the amended plan, the local authority must—

(a) give public notice of the adoption of the amended plan,

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(b) amend the list of core paths compiled under section 18(8),

(c) keep the amended plan, any maps it refers to and the list available for public inspection and for sale at a reasonable price, and

(d) send a copy of each of those documents to Ministers.

(10) Where Ministers decline to make a direction under subsection (8), the local authority must draw up a revised amended plan and must do so in accordance with such procedure and within such time limits as Ministers specify.

(11) Such specification must include provision under which Ministers may (but need not) direct the local authority to adopt the revised amended plan.

20B Review and amendment of core paths plan: notice to owners and occupiers of land

(1) Where, following a review of a plan under section 20(1), the local authority consider that a plan should be amended, the local authority must, at the same time as complying with section 20A(1), serve a written notice on the owner and occupier of any land which is, as a result of the amendment of the plan, being included in a plan for the first time (the "affected land").

(2) Notice under subsection (1) must—

(a) explain the potential effect of the amended plan on the affected land,

(b) set out where the original plan and the amended plan may be inspected, and

(c) specify the period within which any objections and representations in relation to the amendment to the plan may be made.

(3) Where it is not possible, after reasonable enquiry, to identify the owner or occupier of the affected land, notice under subsection (1) may be given instead by leaving a copy of the notice in a prominent place on the affected land.

20C Single amendment of core paths plan: procedure

If the local authority consider that it would be appropriate to make a single amendment of a core paths plan, the local authority must—

(a) consult such persons as the local authority think fit on the amendment, inviting objections and representations in relation to the amendment to be made to them within such period as they specify, and

(b) give such notice of the amendment as the local authority think fit.

20D Single amendment of core paths plan: further procedure

(1) Section 17(3) applies to an amendment under section 20C which includes a further path, waterway or other means of crossing land such as is mentioned in section 17(2) as it applies to a plan drawn up under section 17(1).

(2) Section 20(3) applies to an amendment under section 20C which removes a core path from the plan or diverts the line of a core path on the plan as it applies to an amendment of a plan under section 20(2).

(3) The following provisions apply to an amendment under section 20C as they apply to an amendment of a plan under section 20(1)—

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(a) subsections (2) to (9) of section 20A,

(b) section 20B, subject to the modification that the reference in section 20B(1) to section 20A(1) is to be read as a reference to section 20C.”.

Commencement Information

I1 S. 83 in force at 31.12.2016 by S.S.I. 2016/372, **reg. 2** (with regs. 3, 4)

Court applications

84 Access rights: service of court applications

(1) Section 28 of the Land Reform (Scotland) Act 2003 (judicial determination of existence and extent of access rights and rights of way) is amended as follows.

(2) In subsection (6), at the end insert “ unless subsection (7A) applies ”.

(3) After subsection (7), insert—

“(7A) Where a declaration is being sought under subsection (1)(b)(i), the person seeking the declaration must also serve the application on the person whose exercise or purported exercise of access rights is in question.”

Commencement Information

I2 S. 84 in force at 31.12.2016 by S.S.I. 2016/372, **reg. 2** (with regs. 3, 4)

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Changes and effects yet to be applied to :

– specified provision(s) amendment to earlier commencing S.S.I. 2017/299, regs. 5-14, by S.S.I. 2017/370 reg. 34