



# Land Reform (Scotland) Act 2016

## 2016 asp 18

### PART 4

#### ENGAGING COMMUNITIES IN DECISIONS RELATING TO LAND

#### **44 Guidance on engaging communities in decisions relating to land**

- (1) The Scottish Ministers must issue guidance about engaging communities in decisions relating to land which may affect communities.
- (2) In preparing guidance under subsection (1), the Scottish Ministers must have regard to the desirability of—
  - (a) promoting respect for, and observance of, relevant human rights,
  - (b) promoting respect for such internationally accepted principles and standards for responsible practices in relation to land as the Scottish Ministers consider to be relevant,
  - (c) encouraging equal opportunities (within the meaning of Section L2 of Part 2 of schedule 5 of the Scotland Act 1998),
  - (d) furthering the reduction of inequalities of outcome which result from socio-economic disadvantage, and
  - (e) furthering the achievement of sustainable development in relation to land.
- (3) For the purposes of subsection (2)(a)—
  - (a) “relevant human rights” means such human rights as the Scottish Ministers consider to be relevant to the preparation of the guidance, and
  - (b) in considering what human rights are relevant human rights, Ministers may consult the Scottish Commission for Human Rights and such other persons or bodies as they consider appropriate.
- (4) For the purposes of subsection (2)(b), “internationally accepted principles and standards for responsible practices in relation to land” include the principles and standards contained in the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the context of National Food Security issued by the Food and Agriculture Organization of the United Nations and endorsed by the Committee on World Food Security on 11 May 2012.
- (5) Guidance under subsection (1) must, in particular, include information about—

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**Changes to legislation:** *Land Reform (Scotland) Act 2016, Section 44 is up to date with all changes known to be in force on or before 26 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (a) the types of land and types of decision in relation to which community engagement should be carried out,
  - (b) the circumstances in which persons with control over land (for example, owners and occupiers) should carry out community engagement,
  - (c) the ways in which community engagement should be carried out (for example, by consulting or involving the community).
- (6) Before issuing guidance under subsection (1), the Scottish Ministers must consult such persons as they consider appropriate.
- (7) The Scottish Ministers must lay the first guidance issued under subsection (1) before the Scottish Parliament.
- (8) The Scottish Ministers must prepare and lay before the Scottish Parliament reports—
- (a) assessing the effectiveness of guidance under subsection (1), and
  - (b) setting out the Scottish Ministers' views on any further steps which should be taken to improve the effectiveness of the guidance.
- (9) The first report under subsection (8) is to be laid before the Scottish Parliament no later than 3 years after the date on which guidance under subsection (1) is first issued.
- (10) Subsequent reports under subsection (8) are to be laid before the Scottish Parliament no later than 5 years after the date on which the last such report was so laid.
- (11) In this section “human rights” means—
- (a) the Convention rights (within the meaning of section 1 of the Human Rights Act 1998), and
  - (b) other human rights contained in any international convention, treaty or other international instrument ratified by the United Kingdom, including the International Covenant on Economic, Social and Cultural Rights adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 subject to—
    - (i) any amendments in force in relation to the United Kingdom for the time being, and
    - (ii) any reservations, objections or interpretative declarations by the United Kingdom for the time being in force.

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**Commencement Information**

**II** S. 44 in force at 1.11.2016 by S.S.I. 2016/250, reg. 2(1)(2), sch. 1 (with reg. 3)

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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](#)