



The Mountaineering Council of Scotland

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Dear Sirs

Response to the Land Reform Review Group

The Mountaineering Council of Scotland welcomes the opportunity to submit evidence to the Land Reform Review Group (LRRG). The following comments relate to the statutory rights of access established in Part 1 of the Land Reform (Scotland) Act 2003.

The Mountaineering Council of Scotland (MCoS) is the recognised representative organisation for hill walkers, climbers and ski-tourers who live in Scotland or who enjoy Scotland's mountains, with 11,400 members. The MCoS also acts for the 75,000 members of the BMC (British Mountaineering Council) on matters related to Landscape and Access in Scotland, and provides training and information to mountain users to promote safety, self-reliance and the enjoyment of our mountain environment.

In general terms, the Land Reform (Scotland) Act 2003 is working with regard to access to mountains and hills throughout Scotland. We do not, therefore, consider that there is any need to amend this section of the Act.

There are, however, several areas of concern with the actual implementation of Section 1 of the Act and these are outlined below under the headings from the Call for Evidence paper:

1. Outline your vision of how things could be different and explain why, in your opinion, they should be different

The Land Reform (Scotland) Act 2003 and the Scottish Outdoor Access Code detail the rights and responsibilities of both access takers and land managers and yet there are still several locations where access is being prevented by locked gates, discouraging signs or messages that fall outwith the advice in the Code.

Local Authorities and National Park Authorities (the Access Authorities) have powers within the Act (sections 13 and 14) and within other pieces of legislation to remove these obstructions and yet these powers are rarely used. A lack of resources or enthusiasm to resolve many of these long-standing cases, mean that access is still restricted in key locations. Potentially high costs involved in court cases also deter the Access Authorities from pursuing intransigent land managers and many users are deterred and prevented from using the countryside due to physical or psychological barriers.

Local Authority and National Park Authority statutory functions under the terms of the Act need to have a higher political profile so that adequate resources are assigned to them. Legal notices to landowners should be simplified so that they can be issued after a given timescale, reducing the need for court orders or interim interdicts. The notices should then be acted upon by the local authorities with police back up if necessary.

The removal of barriers to access will allow for an increased participation in outdoor recreation, thereby helping to tackle key health issues that relate to inactivity such as obesity and heart

disease. However there needs to be positive action from the Access Authorities to use the powers within the Act and to allocate sufficient resources to allow this to happen.

2. Indicate any barriers there may be in the way of attaining your vision

Barriers are political and financial. Politicians need to raise the profile of outdoor access so that the Land Reform (Scotland) Act 2003 can be hailed as a world leading piece of legislation. Without an increase in political will, the budgets available to access authorities will always be minimal and legal cases will not be pursued by the authorities for fear of large legal bills. There needs to be a real likelihood that access authorities can and will take land managers to court over long-standing breaches in the legislation otherwise the legislation is toothless and ineffective.

It is unfortunate that a few intransigent land managers cause such a vast amount of work and restrict access when the resources that they take up could be better deployed in improving infrastructure and access to the land for a wider range of the Scottish population.

2013 is the Year of Natural Scotland. This is a great opportunity for the Scottish Government to make a firm commitment to overcoming these "barriers" to full and proper implementation of this piece of legislation.

Progress made in access legislation in Scotland over the last 20 years or so has been immense and has clarified many "grey" areas that previously existed in law. This progress should not be allowed to be undermined or watered down but implementation of the legislation should be strengthened for the benefit of all access takers.

The Mountaineering Council of Scotland would be pleased to meet with the Land Reform Review Group to discuss any of the above points and to present oral evidence to the group.

Yours sincerely

A handwritten signature in black ink that reads "Andrea Partridge". The signature is written in a cursive, flowing style.

Andrea Partridge
Access Officer