



Law Society
of Scotland

Consultation Response

Review of the Land Rights and Responsibilities Statement

January 2022



Introduction

The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Property and Land Law and Rural Affairs sub-committees welcome the opportunity to consider and respond to the Scottish Government's consultation: *Review of the Land Rights and Responsibilities Statement*¹. We have the following comments to put forward for consideration.

Consultation response

1 Do you think that the revised vision reflects the outcomes that we need to achieve?

C) To some extent

Q2 If you have answered 'no' or 'to some extent', what key changes would you like to see to the vision?

The statement as it currently stands reads as being unilateral which, while a positive goal, needs to be aligned to recognise the limits to which rights can be exercised. The underlying principles do make that position clear, but the vision as it stands, does not.

While we welcome the explicit inclusion of references to supporting a just transition to net zero and to natural capital, we consider that biodiversity also merits emphasis within the vision and principles. Natural capital is generally considered to have a human and economic benefit, and we suggest that not including explicit reference to biodiversity is a missed opportunity to stress the importance and benefits of other species. Given the statutory duty on all public bodies in Scotland to further the conservation of biodiversity under the Nature Conservation (Scotland) Act 2004, it is surprising that explicit reference is not made within the Statement.

¹ <https://consult.gov.scot/agriculture-and-rural-economy/review-of-the-land-rights-and-resp-statement/>

Q3 Do you think that the principles are still relevant to current Scottish land issues?

Principle 1: Yes

Principle 2: Yes, however, this has to be balanced in connection with current land ownership and also aligned to a business case/legitimate funding.

Principle 3: Yes, however, this has to be balanced in connection with current land ownership and also aligned to a business case/legitimate funding.

Principle 4: Yes, however, the reference to "holders of land rights" is somewhat ambiguous. The distinction requires to be made (and apply equally) to those who own/lease land and those who exercise rights over land. Both have an equally important role in maintaining standards for sustainable growth.

Principle 5: Yes

Principle 6: Yes, however, we consider that the reference to "decisions about land" is extremely wide. As this stands, this could include anything from day-to-day decisions to significant changes about the use of land. We consider that there would be merit in greater clarification as to the decisions in which a community might be expected to be engaged.

Q4 If you think that the principles could be made more relevant, or that there are any issues that they do not address, please outline this. Please make sure you state clearly which existing principle each suggestion relates to, if applicable.

More generally, we note that without full legislative underpinning of the principles, it may be difficult to make sustained progress on the matters addressed therein.

Q5 Do you have any proposals as to how to measure change as a result of implementation of the Statement, including suggestions for indicators of progress? Please provide details.

No comment.

Q6 Do you think that there is a need for regular reporting on implementation of the Principles of the Statement?

Yes.

Q7 If you think that there is a need for regular reporting, how do you think this should be done and by whom?

Reporting via the Scotland Land Commission's Good Practice Programme self-assessment should be rolled out more widely to provide a greater breadth of reporting and a more complete picture of areas of good practice and actions for development.

Q8 If you would like to submit a case study, please provide details of a specific example. You may submit more than one case study.

No comment.

Q9 Are there any changes that should be made to the Advisory Notes to make it more clear, relevant or reflective of current context? If your comment relates to a specific principle please flag which one.

No.

Q10 Do you have any comments on the layout of the Statement?

No.

Q11 Please tell us about any sectors you perceive to have lower awareness of the Statement.

No comment.

Q12 Do you have any suggestions of ways to engage with sectors who do not currently see the Statement as relevant to them?

Increased publicity through the Scottish Land Commission's (SLC) work, perhaps including an expanded SLC roadshow.

Q13 Do you have any ideas for other ways that adoption of the Statement could be promoted?

No.

Q14 Are you aware of any examples of how the proposals in this consultation might impact, positively or negatively, on island communities in a way that is different from the impact on mainland areas?

No comment.

Q15 Are you aware of any examples of particular current or future impacts, positive or negative, on young people, (children, pupils, and young adults up to the age of 26) of any aspect of the proposals in this consultation?

No comment.

Q16 Are you aware of any examples of how the proposals in this consultation may impact, either positively or negatively, on those with protected characteristics (age,

disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation)?

No comment.

Q17 Are you aware of any examples of potential impacts, either positive or negative, that you consider that any of the proposals in this consultation may have on the environment?

No comment.

Q18 Are you aware of any examples of how the proposals in this consultation might impact, positively or negatively, on groups or areas at socioeconomic disadvantage (such as income, low wealth or area deprivation)?

No comment.

Q19 Are you aware of any potential costs and burdens that you think may arise as a result of the proposals within this consultation?

No comment.

Q20 Are you aware of any impacts, positive or negative, of the proposals in this consultation on data protection or privacy?

No comment.

For further information, please contact:

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