



Scottish Land Rights and Responsibilities Statement



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Ministerial
Foreword

Part 1
Overview

Part 2
Statement
Principles

Part 3
Advisory Notes
and Case Studies
for each Principle

Annex A
Human Rights
Considerations

Annex B
Relationship of
the Statement
to other Scottish
Government
Policies



A Scotland with a strong and dynamic relationship between its land and people, where all land contributes to a modern and successful country, and where rights and responsibilities in relation to land are fully recognised and fulfilled



Roseanna Cunningham MSP Cabinet Secretary
for Environment, Climate Change and Land Reform

MINISTERIAL FOREWORD

Scotland's land is one of our most valuable assets, vital to our national prosperity and to our wellbeing as individuals and communities. In an inclusive and progressive Scotland, it is only right that everyone benefits from it.

The Scottish Land Rights and Responsibilities Statement, the first such statement in the world, will help shape the thinking on land issues in Scotland over the coming years. In keeping with the terms of the Land Reform (Scotland) Act 2016, the Statement adopts a human rights approach to land rights and responsibilities and it signals our determination to continue leading the way

in ensuring that Scotland's urban and rural land contributes to inclusive and sustainable economic growth and to social justice.

I am pleased that many people and organisations helped shape this Statement, by responding to the consultation earlier in the year, by engaging in constructive dialogue with us on the vision and the principles and by contributing ideas and material for the case studies. I wish to thank everyone who contributed to and strengthened the Statement.

There are, of course, different views on how we can best ensure that the relationship between Scotland's land and its people is strengthened and how we should ensure that Scotland's land contributes to the common good, while properly balancing public and private interests.

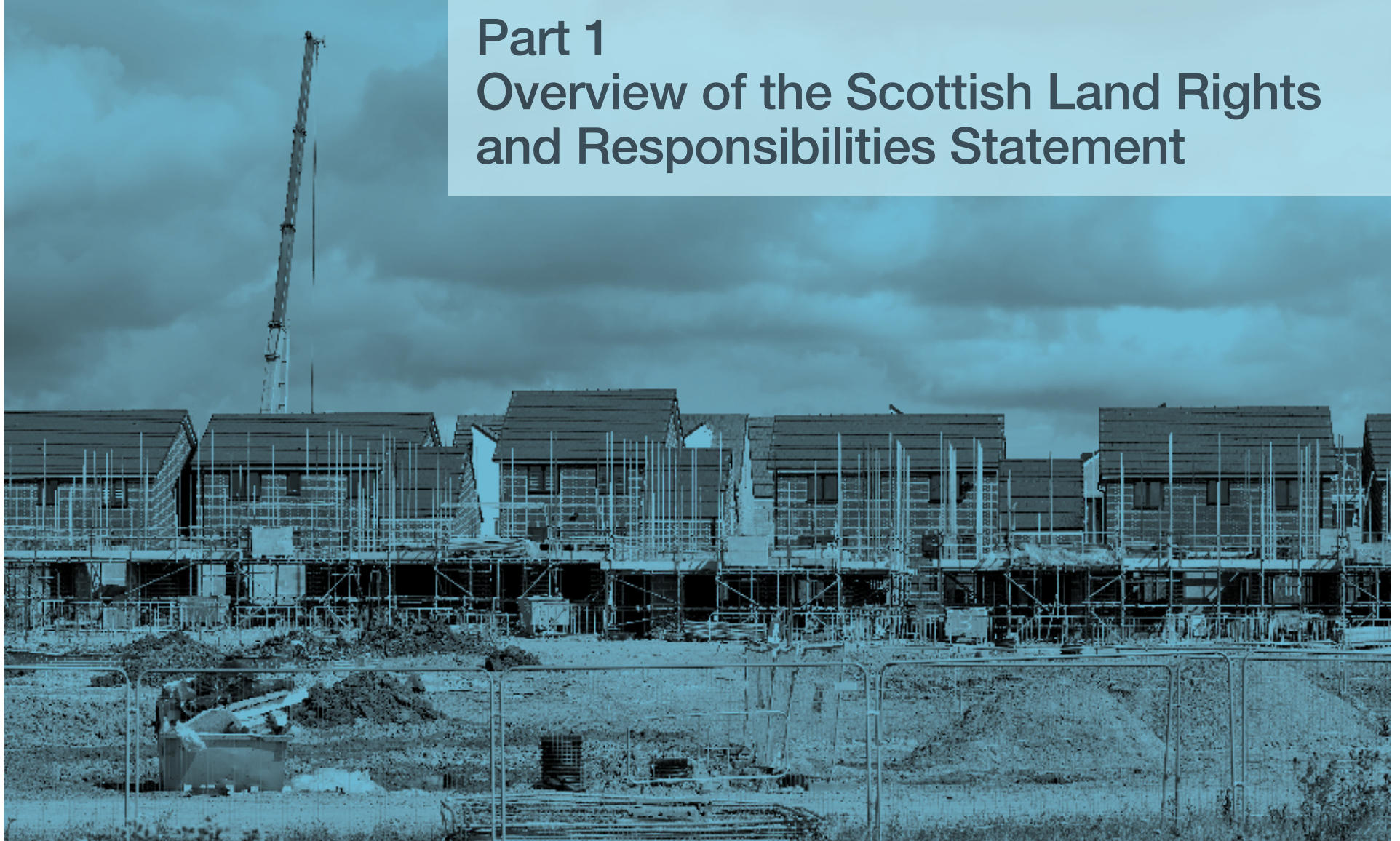
I welcome the ongoing debate on the approach we adopt to land in Scotland and I am delighted that it will be informed by the work of the new Scottish Land Commission, which was formally established in April this year and is already beginning to provide drive and focus on a range of land issues. In its Programme for Government 2017-18, the Scottish Government has set an ambitious agenda for the Land Commission

to examine a number of options for further radical land reform and to provide robust guidance and codes of practice.

The Land Commission will have regard to the Scottish Land Rights and Responsibilities Statement when carrying out its work and I anticipate that they may in due course provide guidance on its application, building on the advisory notes and case studies. These help to explain how the Principles can be realised on the ground and to illustrate the range of good practice already taking place.

I am delighted to be publishing this Statement. I am confident that it will make an important contribution to ensuring that Scotland's land and our approach to it contribute to a modern and successful Scotland, where rights and responsibilities in relation to land are fully recognised and fulfilled.

Part 1 Overview of the Scottish Land Rights and Responsibilities Statement



OVERVIEW OF THE SCOTTISH LAND RIGHTS AND RESPONSIBILITIES STATEMENT

Land reform in Scotland, including matters relating to the ownership, use and management of land and associated rights and responsibilities, is continually evolving. This Statement is a key step in guiding that process. It seeks to inform policy and practice around land issues in Scotland, operating in concert with other relevant strategies and policies. It applies to all urban and rural land, buildings and other infrastructure in Scotland, and it is equally relevant to all the people and communities of Scotland, whether land owner, land manager, tenant or land user.

The principles within this statement are intended to be mutually supportive. They underpin the Scottish Government's vision for a stronger relationship between the people of Scotland and the land, where ownership and use of land delivers greater public benefits through a democratically accountable and transparent system of land rights and responsibilities.

The Scottish Government must, under the Land Reform (Scotland) Act 2016, promote the principles in the Statement when exercising its functions, so far as this is reasonably practicable. However, for the Statement to be an effective catalyst for change, all those with decision-making

powers in relation to land have an important role in the realisation of the principles.

The Scottish Land Commission, established in April 2017, is required, among other things, to have regard to the Scottish Land Rights and Responsibilities Statement in exercising its functions. The Statement and the Scottish Land Commission are important elements of our commitment to ensure that land reform continues to progress.

While the publication of the Statement is the responsibility of Scottish Ministers, the Land Commissioners will play a key role in supporting the development and realisation of the Statement's principles through the provision of expert guidance and advice. Their work will help inform the review of the Statement which Ministers are required to undertake at least every five years.

This first Statement has been published following a wide ranging consultation with individuals and organisations.

Aims of the Statement

The aims of the Statement are as follows:

Firstly, to inform the development of Government policy and action in relation to land, whether that be in planning, housing provision, urban regeneration, farming, caring for the environment or any other Government activities that relate to land. The Statement interrelates with many existing strategies and policies, and it will help inform future iterations of Scotland's Economic Strategy, the Land Use Strategy, and the National Planning Framework.

Secondly, to encourage and support others with significant responsibilities over land, such as local authorities and large private land owners, to consider how their decision-making powers could contribute to realising the vision in the Statement. Many of those who own and manage land in Scotland are already delivering significant benefits and working successfully with local communities but good practice is not yet universal.

Decisions about land ownership, use and management can help address some key issues we face in the 21st century, such as housing shortages, inequality, and threats to the environment.

Private land owners in this context include not only private individuals, but companies, trusts, non-governmental organisations, charities, and community land owners.

Thirdly, to encourage all of us to recognise our responsibilities as well as our rights in relation to land. Decisions that we take as individuals, families, businesses and other groups can have a significant impact on the land and the rights of others who make use of land for legitimate reasons such as business or recreational purposes.

Structure of the Statement

The Statement comprises a vision and six principles and is supported by advisory notes and case study examples. The vision and principles are high-level and ambitious and, together, provide a goal to work towards. The Statement intentionally does not define how land rights and responsibilities should apply in specific or day-to-day situations.

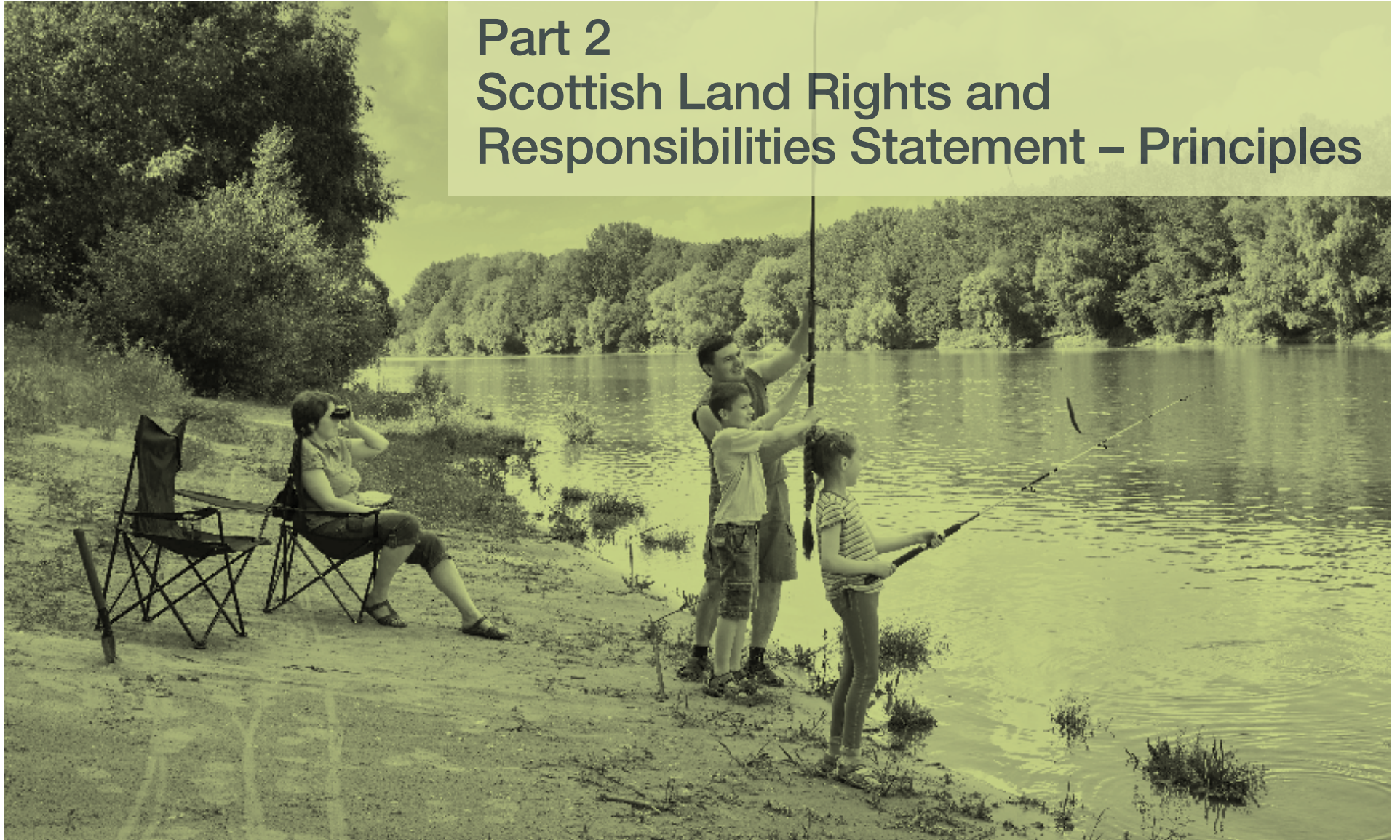
The advisory notes and case studies provide further background and explanation of how the principles can apply in practice and how they link to other policies. They are not intended to be comprehensive or prescriptive.

Meaning of the term “land”

The Land Reform (Scotland) Act 2016 does not define the meaning of “land” for the purposes of the Scottish Land Rights and Responsibilities Statement.

Schedule 1 of the Interpretation and Legislative Reform (Scotland) Act 2010 applies: this provides that “‘land’ includes buildings and other structures, land covered with water, and any right or interest in or over land’.

Part 2 Scottish Land Rights and Responsibilities Statement – Principles



SCOTTISH LAND RIGHTS AND RESPONSIBILITIES STATEMENT – PRINCIPLES

Vision

A Scotland with a strong and dynamic relationship between its land and people, where all land contributes to a modern and successful country, and where rights and responsibilities in relation to land are fully recognised and fulfilled.



The population of Scotland was 5.4m in 2016 and is projected to increase to 5.7m by 2039.

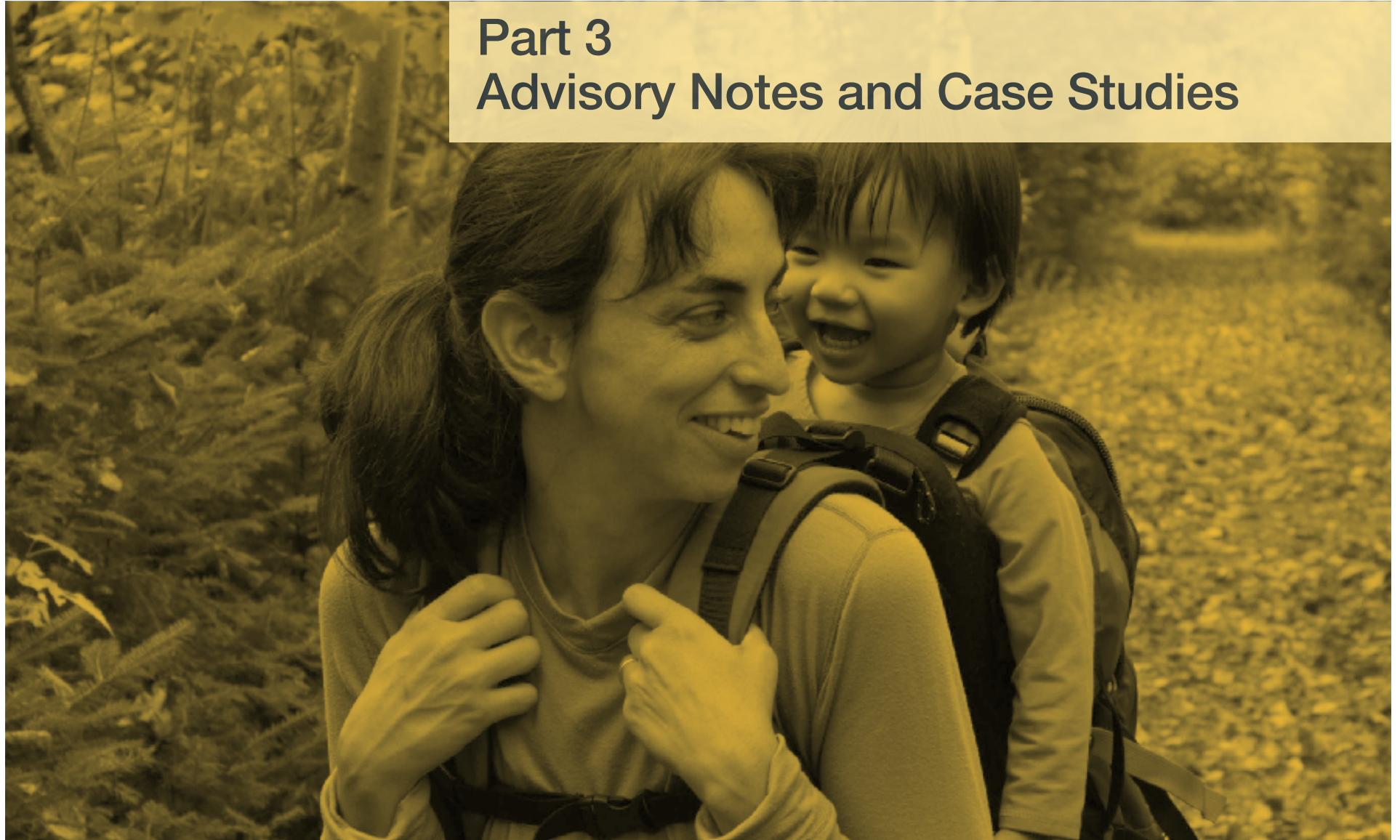


Scotland's land area is approximately 7.8 million hectares.

Principles

- 1.** The overall framework of land rights, responsibilities and public policies should promote, fulfil and respect relevant human rights in relation to land, contribute to public interest and wellbeing, and balance public and private interests. The framework should support sustainable economic development, protect and enhance the environment, help achieve social justice and build a fairer society.
- 2.** There should be a more diverse pattern of land ownership and tenure, with more opportunities for citizens to own, lease and have access to land.
- 3.** More local communities should have the opportunity to own, lease or use buildings and land which can contribute to their community's wellbeing and future development.
- 4.** The holders of land rights should exercise these rights in ways that take account of their responsibilities to meet high standards of land ownership, management and use. Acting as the stewards of Scotland's land resource for future generations they contribute to sustainable growth and a modern, successful country.
- 5.** There should be improved transparency of information about the ownership, use and management of land, and this should be publicly available, clear and contain relevant detail.
- 6.** There should be greater collaboration and community engagement in decisions about land.

Part 3 Advisory Notes and Case Studies



ADVISORY NOTES AND CASE STUDIES

Vision

A Scotland with a strong and dynamic relationship between its land and people, where all land contributes to a modern and successful country, and where rights and responsibilities in relation to land are fully recognised and fulfilled.

Notes

The vision and principles are based on a human rights approach, recognising that land use and ownership contribute to the fulfilment of many human rights.

Scottish Ministers want to see a strong and dynamic relationship between the people of Scotland and the land of Scotland which benefits everyone, and where land is a resource that can be used to support social progress and help individuals to a better life.

People in Scotland exercise a wide range of land rights and use land in many ways. These range from rights governing access to rights covering ownership, tenancy, business and personal use of land.

With all rights come responsibilities. Some of these are regulatory requirements, and others of an ethical nature, such as where people feel an obligation towards the care of the land and a sense of responsibility towards their neighbours. It is important that those exercising land rights recognise their responsibilities, both to the land and to others including to those who have rights in relation to the land.

Many land rights and responsibilities are already defined in legislation and guidelines. Examples are those rights connected with being a landlord of residential or farming property, and the rights and responsibilities of applicants, communities and local authorities involved in planning decisions. New rights to buy land that community bodies will be able to exercise are set out in the Community Empowerment (Scotland) Act 2015 and Land Reform (Scotland) Act 2016.

The [Scottish Outdoor Access Code](#) encourages and promotes respectful access and enjoyment in rural Scotland, but asks users to be aware of the needs and rights of others who are using or working in the countryside, or whose livelihood and wellbeing depend upon it.

The [Good Agricultural Environmental Conditions](#) contain a range of standards under cross-compliance developed to limit soil erosion, maintain soil organic matter levels, ensure a minimum level of maintenance, retain landscape features and protect and manage water.

In addition to legislative requirements, a range of guidance also exists to help individuals and businesses take decisions, and encourage good practice in relation to land and buildings. One example is the ISO (International Organisation for Standardisation) 26000 Guidance Standard on Social Responsibility which was released on 1 November 2010. Its goal is to contribute to global sustainable development by encouraging businesses and other organisations to practice social responsibility to improve their impacts on their workers, their natural environments and their communities. ISO 26000 provides guidance on how businesses and organisations can operate in a socially responsible way. This means acting in an ethical and transparent way that contributes to the health and welfare of society.

Many day-to-day activities in relation to land are not regulated in detail, and it is for the persons involved to use their good judgement and appropriate communication with others who may be affected in taking decisions relating to their use of land. Consideration of the six principles should help to inform an appropriate course of action. Principle 6 of this Statement seeks greater collaboration and community engagement in decisions about land. The Scottish Government will be issuing further guidance about engaging communities in decisions relating to land.

The core purpose of the Scottish Government is to focus government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth. The Scottish Government believes this will only be achieved by making the most of all the resources available in Scotland, including land.

On-going, ambitious land reform will help to increase the contribution of Scotland's land to sustainable economic growth, which is at the heart of the Scottish Government's purpose. Land reform also has the potential to empower greater numbers of people and, over time, to change patterns of ownership in Scotland to ensure a greater diversity of ownership, greater diversity of investment and further sustainable development.

Today there is a heightened understanding that while historic reforms have been beneficial, Scotland as a modern nation needs the ability to frame the governance of its land for the 21st century, and to ensure the on-going consideration of how land and rights over land are owned, used and managed.

PRINCIPLE 1

The overall framework of land rights, responsibilities and public policies should promote, fulfil and respect relevant human rights in relation to land, contribute to public interest and wellbeing, and balance public and private interests. The framework should support sustainable economic development, protect and enhance the environment, help achieve social justice and build a fairer society.



48.6% of adults visited the outdoors at least once a week in 2015



Green infrastructure within town centres can boost commercial trading by up to 40%

Scotland's land is a resource for all of Scotland's people. This resource should contribute to economic, environmental and social goals within a human rights approach. The benefits of this resource can be utilised and enjoyed in many different ways. This includes through ownership, leasing and accessing land, through recreation and through the provision of raw materials, food and market goods, housing, and public goods such as a healthy water supply.

Land rights are central to the realisation of key human rights, particularly economic, social and cultural rights. Scotland was one of the first countries in the world to adopt the United Nations Sustainable Development Goals, a global effort to tackle poverty and inequality and promote sustainable development for all. The human rights basis to the Statement is discussed in detail at **Annex A**.

People should have confidence that there is a fair and balanced system of decision-making in relation to land, and have the opportunity to be engaged in decisions relating to land that impact on them and their local, natural and man-made environments.

Existing guidance such as on health, planning and pollution, is also aimed at promoting the public interest and wellbeing and should be taken into account when relevant.

In the context of the Statement, public interest should not necessarily be thought of in opposition to private interest. Public interest includes the effect on individuals, who are also members of the public.

There are many examples, such as farming, industry, house ownership and rental, where the public interest and private interest coincide. An example is the leasing of land, either for accommodation or for some form of industry such as farming or forestry. The sustainable working of agricultural land makes a significant contribution to the common good, providing us with food while looking after the environment. Another example would be the release of land into community ownership to help achieve community objectives. Both parties can benefit from such an arrangement, provided that they each discharge their obligations fairly and with due respect to the rights and needs of the other party. What is important is that those with decision-making powers in relation to land recognise and act in accordance with their responsibilities as well as their rights.

A further example is the Scottish Government providing a range of targeted support to those seeking to access home ownership. Its Open Market Shared Equity scheme, with a budget of £70 million this year, targets first time buyers and priority access groups. Over the past decade it has helped more than 9,000 people on low to moderate incomes to buy a home. Its Help to Buy (Scotland) shared equity scheme also provides support to buyers wishing to purchase a new build home up to the value of £200,000. It has a budget of £65m this year and has supported over 10,000 households to purchase a new build property since it began in 2013.

Individual interest and wellbeing may, in some circumstances appear to conflict with public interest and wellbeing. An example is where decisions, or a lack of decisions, relating to land, pose a serious impediment to sustainable development, or otherwise hinder better outcomes for the local area. In such cases constructive dialogue would usually be the most appropriate course in seeking a resolution. There can be circumstances when dialogue may not be the appropriate first course of action. For example, if a public hazard such as an unsafe building requires urgent attention, then this needs to be dealt with quickly,

appropriately and in line with any relevant legislation or other regulatory requirements.

Sustainable Development

Decisions taken about how to realise the full public benefits from Scotland's land and buildings must take sustainable development and the wellbeing of our environment and communities into consideration.

Sustainable development is strongly linked to inclusive growth, a long-term aim of the Scottish Government which means "growth that combines increased prosperity with tackling inequality; that creates opportunities for all and distributes the dividends of increased prosperity fairly". It requires managing the land sustainably so that it can continue to deliver these benefits over time.

As part of [Scotland's Economic Strategy](#) and the [Fairer Scotland Action Plan](#), the Scottish Government has made a commitment to the people of Scotland to take long-term action to change our society and make it a fairer and more productive place to live. The Scottish Government is working towards a fairer society which allows those who suffer from disadvantage to participate, and empowers individuals and communities.

In the context of the Scottish Land Rights and Responsibilities Statement, this means ensuring that more people, as communities and individuals, can benefit from land related opportunities. This includes opportunities for economic growth, cultural and social development, and environmental improvements.

Examples of this include ensuring availability of land for local businesses, and providing adequate levels of appropriate housing. It also covers provision of cultural facilities, such as village halls, land for sports facilities, city green spaces and public galleries.

There are many definitions of sustainable development. However it is generally understood to have the goal of enabling all people to satisfy their basic needs and enjoy a better quality of life without compromising the quality of life of future generations.

The World Commission on Environment and Development's (the Brundtland Commission) report "Our Common Future" (Oxford: Oxford University Press, 1987) defined sustainable development as "Development that meets the needs of the present without compromising the ability of future generations to meet their own needs."

Sustainable development suggests that meeting the needs of the future depends on how well we balance social, economic and environmental objectives or needs when making decisions today. By looking after our environment we can ensure that we have the natural resources to support economic development and social aspirations in the future. By supporting industry we can generate wealth that will help us to better look after the environment and support social goals such as community empowerment and social mobility.¹

What we are doing

- [Scotland's Economic Strategy](#) has inclusive growth as a core priority. This combines the mutually supportive pillars of increasing competitiveness and tackling inequality.
- The [Fairer Scotland Action Plan](#) outlines 50 actions around tackling poverty, reducing inequality and building a fairer and more inclusive Scotland.
- The [2020 Challenge for Scotland's Biodiversity](#) is Scotland's response to the United Nations Aichi Targets. It calls

for increased efforts to halt the loss of biodiversity and to protect the wider benefits that a healthy natural environment provides.

- The [Low Carbon Economic Strategy](#) sets the policy direction for low carbon economic opportunities and sets out proposals and policies for meeting annual emissions reduction targets.
- The [3rd National Planning Framework \(NPF3\)](#) is the spatial expression of the Government's economic strategy. It sets out how development and investment in infrastructure will support sustainable economic growth and share the benefits of growth by encouraging economic activity and investment across all of Scotland's communities whilst protecting our natural and cultural assets. Scottish Planning Policy (SPP) sets out Scottish Government policy on how land use planning matters of national importance should be addressed across the country and includes a principal policy on sustainability. Both NPF3 and SPP are expected to be reviewed and updated by 2020.
- The Scottish Government's [Regeneration Strategy](#) provides a framework for local action to tackle area inequality, create

opportunities and improve communities. The strategy is supported by various targeted funding streams aimed at meeting the needs of communities.

- [Marine Scotland's Strategic Framework 2013-16](#) categorises its objectives under the three themes of economic, environmental and social.
- The [Scottish Rural Development Programme 2014 – 2020](#) delivers Pillar 2 of the EU Common Agricultural Policy (CAP). It funds economic, environmental and social measures for the benefit of rural Scotland.
- The Scottish Government's plans to complete the devolution of forestry are driven by our ambition to maximise the sector's contribution to economic, environmental and social outcomes.
- The [Scottish Forestry Strategy](#) will be reviewed during the period of the current [Land Use Strategy \(2016-2021\)](#) to ensure that the Strategy reflects changing priorities and aligns with key policies.
- Scotland supports the United Nations Sustainable Development Goals internationally via our [International Development Fund](#) and [Climate Justice Fund](#), which were worth £9 million and

¹ For example see: <http://www.worldbank.org/en/topic/sustainabledevelopment/overview>

CASE STUDY

Housing Rights in Practice

Tenants in Edinburgh are taking a human rights-based approach to improving housing conditions by linking local indicators (measurements of success) set by tenants to international human rights standards.

The housing rights in practice project is part of Scotland's National Action Plan (SNAP) for Human Rights² and a collaboration between Edinburgh Tenants Federation (ETF), the Scottish Human Rights Commission (SHRC), and the Participation and the Practice of Rights (PPR) in Belfast.

The project is about making human rights real for people in their own homes. It aims to empower residents, increase participation and improve housing conditions.

Judith Robertson, Chair of the SHRC, said: "When talking of the Universal Declaration of Human Rights, Eleanor Roosevelt stressed that human rights must have meaning in the 'small places, close to home'. This project shows how the work taking place through SNAP is taking international human rights standards and supporting people to apply them in their everyday lives – in this case, realising the right to housing."

In the last 18 months, residents have carried out participatory action research, surveying their neighbours in 182 homes and finding that more than half experienced inadequate housing conditions, including dampness, poor heating, drainage issues, pest infestations and inadequate kitchens and bathrooms.

These findings spurred residents to learn about their rights in practice. As part of the International Covenant on Economic, Social and Cultural Rights, "everyone has the right to an adequate standard of living, including adequate housing."³

The group set priorities for action and indicators for improvement, based on international human rights standards, which were then presented to the local authority housing provider in June 2016.

Since then, regular meetings with the local authority have been fruitful, with a programme of works to address tenants' issues being fast-tracked to include new heating systems, windows, kitchens and bathrooms and addressing the infestation problems that had been reported.

Heather Ford, one of the tenants involved in the project spoke of how learning about

rights benefitted her tenants' association: "Understanding our human rights has given us the strength to carry on. We believe now that we really can make a difference – not just for ourselves but for our entire community."

Introducing a human rights-based approach explicitly into tenant participation work is a way tenants can hold landlords to account for their housing conditions and participation processes.

"Tenants are not just the bankrollers for their landlord's housing stock – they are the rights holders, and they have a right to hold landlords to account, through international treaties and Scottish legislation," adds Clare MacGillivray, Development Coordinator at the Edinburgh Tenants Federation.

"That shift in thinking – with empowered tenants really at the heart of framing what matters in their communities, transforms tenants from being 'service users' or 'customers' to rights holders. This shift can work brilliantly for communities. But it can also be transformative for public authorities and social landlords, as they move into territory that really puts people at the heart of change and improved service delivery."

For more information about Scotland's National Action Plan for Human Rights (SNAP) check out www.snaprights.info

² Scotland's National Action Plan for Human Rights 2013 – 2017 (SHRC: 2013). <http://www.snaprights.info/wp-content/uploads/2016/01/SNAPpdfWeb.pdf>

³ Office of the High Commissioner for Human Rights (1991), CESCR General Comment No. 4: *The Right to Adequate Housing (Art. 11 (1) of the Covenant)*

£3 million respectively in 2016-17.

PRINCIPLE 2

There should be a more diverse pattern of land ownership and tenure, with more opportunities for people to own,



Population density varies greatly between Scotland's council areas – from a low of 9 people per sq km in Na h-Eileanan Siar to a high of 3,521 in Glasgow City in 2016



Scottish Government has committed to delivering 50,000 affordable homes, including 35,000 social rent, during the current Parliament.

lease and have access to land.

At the time of the introduction to the Scottish Parliament of what became the Land Reform (Scotland) Act 2016, the Scottish Government's accompanying policy memorandum said that land reform has the potential to empower greater numbers of people. It said that over time, land reform can change patterns of ownership in Scotland to ensure a greater diversity of ownership, greater diversity of investment and greater sustainable development.

A key purpose of Principle 2 is to support those aims. A diverse pattern of land ownership can support a range of scales of ownership and management, adapted to the needs of local regions and areas, communities and businesses.

Scotland needs to grow its existing businesses and encourage start-ups, including social enterprise and development trusts. Access to land and premises is a key requirement for all forms of enterprise. In our rural communities a variety of agricultural land tenure types exists, from crofts, small landholdings and smallholdings to larger tenant and owner-occupier farms, estates and community owned estates. There are also a variety

of short and longer term farm tenancy arrangements available. It is important to maintain and build on this mix of land tenure arrangements to ensure greater choice for those looking to enter the agricultural industry and for the sustainability of the industry as a whole. In addition, a wide variety of charitable and public bodies manage our natural and built heritage, providing a valuable service to Scotland's economy.

The Scottish Government's vision is for all people in Scotland to live in high-quality sustainable homes that they can afford and that meet their needs. As part of making this a reality, we need to increase the number of homes in Scotland and ensure the availability of a variety of tenure and ownership options which cater for the full range of people's needs. The More Homes Scotland approach is our overarching approach to support the increase in the supply of homes across all tenures. It brings together a range of projects and programmes: to secure more investment for more housing; to support infrastructure, land and housing delivery; and promote more effective planning, place-making and design, as well as engaging and supporting stakeholders.

There may be occasions when the scale or pattern of land ownership and control, or the

decisions of land managers, can be a barrier to sustainable development for a community. This does not imply that there is any one optimum scale of land ownership, or ideal pattern of land ownership or management structure. But a wide and diverse availability of land and buildings allows businesses, organisations, individuals and communities, to pursue projects of all scales and purposes.

Access to land can provide a range of benefits, including supporting local economic development, providing spaces for social and amenity activities, and access to green spaces. Offering more people the opportunity to own and lease land can also contribute to a fairer Scotland and enables more people to enjoy land and the rights, opportunities and responsibilities that go with it.

Examples of what we are already doing

- Forest Enterprise Scotland launched the new Community Asset Transfer Scheme (CATS) for the National Forest Estate in January 2017. CATS set out how Forest Enterprise Scotland is implementing the asset transfer requirements under the Community Empowerment (Scotland) Act 2015.
- A central component of the [More Homes Scotland approach](#) is the Scottish Government's commitment to deliver at least 50,000 affordable homes, including 35,000 for social rent by the end of this Parliament. Delivering at least 50,000 affordable homes over five years (equivalent to about 2% of the total number of dwellings in Scotland) is part of efforts to make sure that there are a sufficient number of high-quality homes in Scotland so that everyone has a reasonable choice of where they want to live and the type of accommodation they live in. This will be supported through over £3 billion of Scottish Government investment over the five years. This will, on average, leverage economic activity in the region of £1.7 billion per year, supporting around 14,000 jobs in the construction and related industries across Scotland.
- [Small Farms Grant Scheme](#) and the [Crofting Agricultural Grant Scheme](#) provide grants to smaller agricultural businesses. Another important grant is the [New Entrants Capital Grant](#). For further information please see the [Young Farmers and New Entrants Start-Up Grant Schemes Guidance](#).
- Since 2007, the Scottish Rural Development Programme's [LEADER](#) programme has supported over 2,200 initiatives across rural Scotland, including such diverse areas as food, tourism, transport, digital, access, biodiversity, landscape, culture, health, employment, leisure, youth services, regeneration and historic environment.
- The [Land Reform \(Scotland\) Act 2016](#) amends the pre-emptive right to buy for tenant farmers of certain agricultural holdings to remove the requirement for tenant farmers to register their interest in land, making their pre-emptive right to buy automatic, should their landlord decide to sell. When fully implemented, the 2016 Act will also create a new community right to buy for communities to further sustainable development.
- In addition, the Scottish Government works with public, private and third sector partners to deliver a range of initiatives to encourage business start-ups and grow existing businesses, including the provision of financial support and advice.

CASE STUDY

Tomnah'a Market Garden, Comrie Croft, near Crieff

Tomnah'a Market Garden is a new enterprise at Comrie Croft aiming to reconnect people with fruit, vegetables and flowers and how they can be grown in Scotland. They use wildlife friendly growing methods to increase biodiversity and sustainable long-term productivity creating a "partnership with nature". A vegetable box scheme provides seasonal vegetable boxes from May to January using only produce grown on site. Members are encouraged to take part in the growing, harvesting and, particularly, packing of their own vegetable boxes. Work days, parties and film nights are held both on the farm itself and at local venues to encourage involvement in the project and to discuss broader issues.

The Market Garden originated when the director of Comrie Croft, Andrew Donaldson, began actively looking for someone to set up a food growing business on the land, understanding the need for local community grown food and how this would complement the existing activities and businesses. After meeting Andrew, a team of four created Tomnah'a Market Garden on a rented five acre field at Comrie Croft.

Over the past two years this field of rough grazing has been transformed into a bio-diverse and productive market garden which has:

- created new habitats for wildlife, such as hedges, wildflower meadows, long grass and trees;
- built up the quality of the soil and added fertility through composting, bringing in manure and introducing hens to graze; and
- built infrastructure to increase the value of the land, for example deer fencing, farm produce services and buildings.

Tomnah'a Market Garden aims to create a more stable local economy by selling 80% of its produce within 10 miles of the farm and providing seasonal food for the local community to help achieve fewer food miles. The local population benefits through eating fresher, more nutritious food and gaining an understanding of where their food comes from via access to the farm, both through membership of the vegetable box scheme and from open days.

Through this access to the farm, members of the box scheme are able to see their food growing and help on collection days by harvesting vegetables to pack into their own boxes. The garden also highlights the

many different things that can be grown in Scotland throughout the whole year.

The garden has so far created four jobs for local people, and it is hoped this number will increase as the project develops. The garden works closely with local businesses to reduce waste and allow for product exchange and the sharing of tools and delivery methods.

Web links: [Tomnah'a Market Garden](#), [Comrie Croft](#)



PRINCIPLE 3

More local communities should have the opportunity to own, lease or use buildings and land which can contribute to their community's wellbeing and future development.



Based on a scale of 1:10,000, there are around 18,000 kms of coastline in Scotland



Scotland's woodland area consists of 74% conifer and 26% broadleaf species.

Land is a key asset for supporting local and national economic growth and social and environmental aspirations and objectives. Land and buildings are required for projects such as housing, allotments, renewable energy generation, many forms of business activity and social and community enterprises. Land, and its associated natural resources, also provide a basis for many public goods, including air quality, water supply, flood control and carbon sinks.

Having control over land as a resource can help contribute to increased community resilience, enabling and empowering communities to adapt land uses to their sustainable development needs and to develop plans to adapt to changing circumstances. For instance it can help communities to be more resilient in responding to environmental changes originating from climate change and the implications associated with the UK Government's decision to take the UK out of the European Union.

All types of land owners, public and private, can help to contribute to sustainable development. However in recent years there has been a growing awareness that community based organisations can often be best placed to help deliver many benefits in rural and urban

areas. Community ownership can support wellbeing and resilience by giving local people the opportunity to identify and respond to their own needs. This can include creating jobs through enterprise, supporting vulnerable people, giving children opportunities, or celebrating local culture, food or sport.

New rights for communities to buy land will be introduced through the Community Empowerment (Scotland) Act 2015 and the Land Reform (Scotland) Act 2016, and these will help increase the amount of land in community ownership as we progress to achieving our ambition of 1,000,000 acres of Scotland's land in community ownership

The ownership or lease of land and buildings can empower communities by strengthening local people's voices in the decisions about the resources and services that matter to them.

As with all land owners, community land owners have responsibilities as well as rights relating to their land. They have a vital part to play in promoting sustainable development and meeting the economic and social challenges we face as a nation and as world citizens.

The principles within this statement should be mutually supportive, and Principle 3

should be read alongside the other principles. For example, community land owners, as with other land owners, are encouraged to practice high standards of land ownership and stewardship as outlined in Principle 4. They are expected to collaborate, under Principle 6 with other communities, surrounding land owners, and public authorities, to support sustainable development. In turn, private land owners and public authorities are encouraged to see community land owners as valuable partners in promoting sustainable development and better land use.

Management of a river system is an example of the expectations on community and other land owners, with regard to the human rights principles embedded within this statement. In managing land in a water catchment area, community land owners, as with other land owners, should be mindful of the downstream effects on other land owners and communities.

Examples of what we are already doing

- The [Scottish Land Fund](#) supports communities to buy land and buildings which will enable that community to become more sustainable and resilient. The Fund for 2017-18 is £10 million.
- Under the [Community Empowerment \(Scotland\) Act 2015](#) the Community

Right to Buy powers have been extended to urban Scotland, so that every local community has the opportunity to benefit from the advantages of community ownership under this right to buy.

- Asset Transfer powers in the [Community Empowerment \(Scotland\) Act 2015](#) give community organisations a right to request the transfer of ownership or other rights in land from public sector bodies, where they can make better use of that land.
- [Community Right to Buy legislation](#)⁴ allows community organisations to apply to register their interest in buying the land and building assets that would help them in achieving their aims.
- Scotland has a strong focus on climate justice because climate change impacts most severely on poor people and vulnerable communities. The report [Mapping Flood Disadvantage in Scotland 2015](#) assesses social vulnerability for the key risk of flooding to help people working in flood risk management, resilience, emergency services, public health, social care, housing, and the environment.
- The [Climate Challenge Fund](#) supports communities across Scotland to take action

on climate change and make the move to low carbon living. Since 2008, the Scottish Government has made 986 awards valued at £85.8 million to 622 communities.

- The [Community Energy Policy Statement](#) lays out the Scottish Government's target of 500 MW community and locally-owned renewable energy by 2020.
- The Scottish Government continues to support and encourage communities and organisations towards the ambitious target of having one million acres of land in Scotland in community ownership by 2020.
- The £25 million-a-year [Regeneration Capital Grant Fund](#) supports projects that involve local authorities working with local communities to create new or refurbished assets, thus stimulating inclusive economic growth and tackling inequality in disadvantaged communities.
- The [Empowering Communities Fund](#) supports community-led regeneration activity throughout the country to help tackle inequality, empowering communities to deliver on the priorities that matter to them the most.
- The [Community Ownership Support Service](#) provides advice and information to those communities considering asset ownership.

⁴ Part 2 of the [Land Reform \(Scotland\) Act 2003](#), as amended by Part 4 of the [Community Empowerment \(Scotland\) Act 2015](#).

CASE STUDIES

Action Porty – Bellfield



Attractive and vibrant places where people want to live and bring up families are about much more than simply building houses. This belief inspired people in Portobello (on the eastern fringe of Edinburgh) to form an organisation and seek to use the Community Right to Buy legislation (CRtB). The context for the establishment of Action Porty was the awareness of significant housing plans which would lead to an increase in the population, against a backdrop of diminishing public amenity facilities.

In April 2016 a public meeting was called to discuss the impending closure of a second church and halls within Portobello (the first already having been sold for housing). Despite short notice, over 70 people attended and agreed to explore the possibility of taking the former Portobello Old Parish Church into community ownership – to safeguard and develop valuable community space. A steering group was established and a letter sent to the owner offering to buy the property at market value in return for six months grace to test viability and raise money. This request was declined.

This decision prompted an intense period of local activity – a concert was organised, volunteers were recruited, a petition was launched, Action Porty was incorporated and the CRtB registration process was initiated. Development funding from the Scottish Land Fund enabled the community to employ a small consultancy team to conduct an options appraisal/feasibility study, and subsequently, through further funding, a business plan. Throughout this period there was on-going community engagement, culminating in a very well attended Open Day in September 2016.

The successful CRtB registration was triggered when the church was put on the market, and the subsequent process included a postal ballot of the community. This demonstrated 98.5% community support on a 50% turn-out. The Minister decided that land should be sold to Action Porty and this was to become the first urban CRtB, and serious negotiations about the sale of the church to the community commenced. In the meantime fundraising efforts secured the money required for the acquisition, at a price determined by an independent valuer.

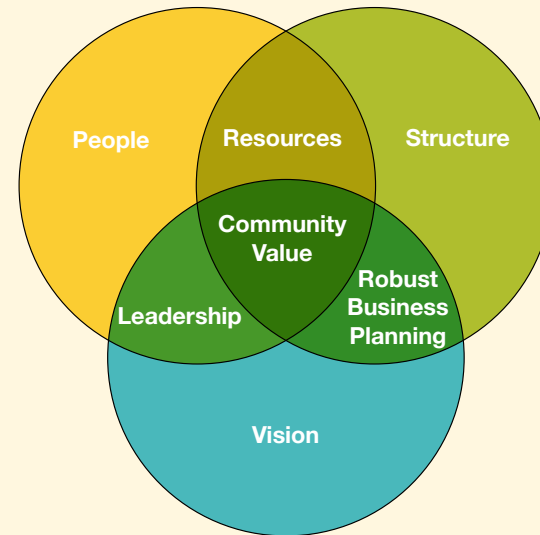
Action Porty took ownership of the church and halls in September 2017, (less than 18 months since the initial public meeting) and aim to open to the public in January 2018. In the meantime, activity continues: further investigations on the property; securing anchor tenants and potential regular users; testing the business plan; and raising the money required to deliver a state of the art, fully accessible community hub and venue for the community.

Falkland Community Library, Fife



In October 2015, Falkland Library was one of sixteen libraries identified for closure by Fife Council. The library building adjoins the Community Hall, so it made sense for Falkland Village Hall Trust, the registered charity which operated the hall, to consider acquiring the library to create a joined-up community space. This would maximise the potential for making a vital and positive contribution to the social, cultural, economic and educational development of the community and the surrounding area.

From the Trust's perspective, there were three key interdependent elements required to guarantee a successful bid and long-term viability of the project: vision, people and structure.



Vision

The Trust embarked on an extensive public consultation exercise to ensure it had the support of the local community. Following community engagement, a clear and detailed vision for the library emerged. This vision was informed by extensive research, including a review of available academic literature on community managed libraries and direct contact with existing community managed libraries across the UK.

Structure

Falkland Village Hall Trust was an unincorporated charitable body and it was felt that, in its present form, it was not fit for purpose. After researching and considering the options available to them, Trustees decided to form a Company Limited by Guarantee. The new organisation, Falkland Community Development Trust, was registered on 31 October 2016 and gained its charitable status on 3 November 2016. The Trust's Articles of Association and purpose of the organisation are consistent with furthering the achievement of sustainable development as outlined in the Community Empowerment Act (Scotland) 2015.

People



Besides gaining extensive support within the community for the bid, the Trust were successful in recruiting sufficient numbers of individuals who were willing to act as volunteer staff members at the library and others who, though they didn't want to volunteer as staff members, were happy to help with other related activities such as fundraising.

An outline business case was submitted to Fife Council in February 2016, with a subsequent full and robust business case being submitted in July 2016. Fife Council considered the bid from Falkland at a full meeting of its executive group on 18 October 2016. The Trust was subsequently informed on 25 October 2016 that their bid had been successful.

The Trust was offered the building for an initial five-year term with an option to renew it for a further 25 years. The Trust is also considering acquiring the building by means of the asset transfer scheme. The lease was duly signed and on 11 April 2017 the Trust were formally handed the keys to the library by Fife Council.

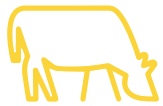
The library was officially opened on 1 July 2017 by internationally acclaimed Fife author James Oswald. To date it has in excess of 180 registered users, a number which increases on a weekly basis. Initially open three half-days on a Tuesday, Wednesday and Thursday between 1.30pm and 4.30pm, and a Saturday morning between 9.30am to 12.30pm, opening hours were extended on a Thursday to 7pm in the evening.

The library catalogue can be accessed online by users and in September 2017 the library also added eBooks to its catalogue. Other facilities include three public access PC's with MS Office software, an A3 flatbed scanner, laser printer/copier, a laminator and a hot drinks machine.

As part of an on-going educational programme, the library has held storytelling events for the under-fives, an introduction to robotics course for young adults between the ages of 12 to 15 years and a summer reading competition for primary school children. Creative writing courses and meet the author events are also planned.

PRINCIPLE 4

The holders of land rights should exercise these rights in ways that take account of their responsibilities to meet high standards of land ownership, management and use. Acting as the stewards of Scotland's land resource for future generations they contribute to sustainable growth and a modern, successful country.



65% of Scotland is made up of grazing and grass land.



Scotland's area of Inland Water is approximately 90,000 hectares.

The holders of land rights already have duties under legislation, for instance pollution control and building safety regulations, designed to protect people and the environment.

However, for the purpose of this Statement, meeting high standards of ownership, management and use, goes further in that it provides that land owners should take decisions about their land in ways that support social and economic development and protect and enhance the environment. Responsible investment recognises land as a resource that can support a sustainable future, continued prosperity and greater social justice.

Many land owners make significant contributions to the public good. This includes through the provision of food, timber, recreational opportunities, environmental management and nature conservation, land for housing and industry, and many other activities. Good stewardship and high standards of land management, focused on sustainable development, support and enhance these activities while taking account of the needs of local communities and wider national outcomes.

Good stewardship also means being aware that decisions about land can have an

impact on many people's lives, including but not exclusive to those of the owner of the land or tenant. It takes account of how decisions about land can affect a variety of factors including housing and employment, the viability of businesses and the quality of the environment that people experience.

High standards of land management and good stewardship of land mean promoting the sustainable development of land by contributing to better and more productive economic, social, cultural and environmental outcomes, and in general considering the public good as well as the good of those who own land. An example would be making better use of land to produce food, housing, employment or to contribute to nature conservation and environmental management.

Those who own, manage or use land are responsible for the good stewardship of that land, and ensuring that, in line with sustainable development, Scotland's land and associated buildings and infrastructure are well looked after and, where possible, improved.

The interrelation of property and tenure rights with wider human rights underpins the Food and Agriculture Organisation of the United Nations' *Voluntary Guidelines*

on the *Responsible Governance of Tenure (VGGTs)*. The goal of the VGGTs is to support the progressive realisation of the right to adequate food and national food security. Within this context they promote secure tenure rights and equitable access to land, fisheries and forests, as a means of eradicating hunger and poverty, supporting sustainable development and enhancing the environment.

The VGGTs are voluntary guidelines and contain the principle of “responsible investment.” They state that responsible investments “should do no harm”, and are defined as recognising wider policy objectives around providing benefit to the country and its people. Responsible investments should be acknowledged by Government and non-government bodies.

The work of the Land Commissioners and the Tenant Farming Commissioner will play an important role in further developing advice on good stewardship over time, in response to changing contexts and particular situations and in collaboration with land owners and land users. For example, the [Codes of Practice](#) produced by the Tenant Farming Commissioner can be considered examples of good practice.

What else we are doing

- The [Land Use Strategy for Scotland 2016-2021](#) provides a policy agenda for all land in Scotland and a set of principles for sustainable land use.
- Scotland's [National Food & Drink Policy – Becoming a Good Food Nation](#) reaffirms the Scottish Government's commitment to promoting the sustainable economic growth of the food and drink industry, which is underpinned by our farming and natural environment.
- The [National Planning Framework 3](#) provides a clear long-term national vision for development and investment across Scotland for the next 20-30 years, with a focus on supporting sustainable growth and a low carbon economy.
- The [Future of Scottish Agriculture: a discussion document](#) lays out a vision for a resilient agricultural community and details the next steps to be taken for a sustainable and prosperous agricultural sector.
- Since 2013, the Scottish Natural Heritage led [Peatland Action](#) initiative has supported restoration of over 10,000 hectares of peat.
- The [Scottish Plant Health Strategy](#) recognises that plant health is at the heart of Scotland's rural economy, natural environment and wellbeing and it sets out how, by working together, we can protect crops, trees, and other plants from new and existing pests and diseases.
- The Scottish Government has agreed to bring forward proposals for Compulsory Sales Orders which will provide a further tool to address the problem of abandoned buildings and small plots of land in town centres and communities whilst also adequately protecting the rights of owners.
- [Community Empowerment \(Scotland\) Act 2015](#) contains provisions to allow communities to apply to buy abandoned, neglected and detrimental land, and we will introduce secondary legislation to bring this into force in due course.

CASE STUDIES

The Heart of Scotland Forest Partnership



Partnership Description

The Heart of Scotland Forest Partnership is a five year local initiative to connect the woodlands of five partner organisations. This will have environmental benefits by creating a corridor for wildlife and restoring natural processes. It will create social value by giving a wide variety of people the chance to enjoy, access and learn in the outdoors. The activities undertaken by the partners will stimulate economic growth through employment and by enhancing and promoting the area – drawing more visitors to the location.

Based in Highland Perthshire, at the very heart of Scotland, the six partner organisations bring together public, private, community and NGO landowners. Collectively the partners have committed to work together for the mutual benefit of wildlife and people.

The Partners

The partners involved are Highland Perthshire Communities Land Trust (who look after Dun Coillich), John Muir Trust, Kynachan Estate, The Scottish Wildlife Trust with Keltneyburn Nature Reserve, Woodland Trust Scotland who are contributing through their Woodland Creation outreach work and the Forest Enterprise Scotland, Foss Forest, where new native woodland establishment, instigated three years ago, sits alongside the boundary of this project.

Project Objectives

The project focuses on creating a vibrant woodland landscape that visitors can enjoy through community involvement and volunteering. Each partner is taking forward different elements that together will enhance the rural economy and support environmental improvement across the wider landscape. Key projects identified for the period of the partnership include:

- The removal of non-native conifers and planting of native species and natural seedling regeneration supported by sensitively sited fencing allowing aspen, birch and rowan, currently checked by browsing, to be able to reach their potential.
- Supporting the natural regeneration of willow and improving the habitat for black grouse and nesting habitat for willow warblers and wrens.
- Working towards a woodland network to link the Keltneyburn Special Area of Conservation to Loch Tummel, at the North of the Foss and Kynachan areas.
- Rural skills training for young people with trainees given the opportunity to work across the partnership area as well as taking forward the enhancement of the community owned land at Dun Coillich.

Mar Lodge



Introduction

Mar Lodge lies at the heart of the Cairngorms National Park and is one of the most important conservation areas in Europe. Its tumultuous landscape encompasses 15 Munros – including Ben Macdui, the UK’s second highest mountain – and ever-expanding Caledonian forests, the subject of a 200-year regeneration plan. Mar Lodge Estate is also now the largest nature reserve in the British Isles.

Mar Lodge is also an important resource for the local community, for researchers, and for the many visitors to the area. All these environmental, social and economic interests must be managed to deliver the maximum benefit and to ensure they are available for future generations.

Management

Mar Lodge was acquired for the nation by the National Trust for Scotland in 1995, through support from the Easter Charitable Trust and the National Heritage Memorial Fund. At 29,000 hectares, the Mar Lodge Estate is the single largest property in the care of the Trust, and with its high plateau is one of the most extensive areas of wild land in Britain.

The property includes three separate areas of native Caledonian woodland covering some 800 hectares – 5% of the total national resource. This habitat is also important for red squirrel, black grouse, capercaillie, Scottish crossbill, parrot crossbill, wood ants, and other invertebrates and fungi. These pinewoods are the now elderly remnants of a much larger forest cover, which has declined further over the last 150 years as deer browsing has prevented natural regeneration. There is now an opportunity to enhance the significance of this habitat through native woodland restoration on a truly landscape scale.

In conjunction with the local community, neighbouring owners, and Scottish Natural Heritage, the Trust has now developed a property management plan with a 200 year horizon to further restore landscape and habitats, with woodland regenerated to a natural treeline below the montane plateau, and grazing animals managed at sustainable levels enabling native species and semi-natural habitats to flourish. The management plan also encourages access, enjoyment and learning.

Mar Lodge Estate does not exist in isolation, and the social, cultural and economic importance of this asset to the local community, and the mutual dependence between owner and users is recognised. The Trust seeks to engage communities through open days, newsletters and bulletins, social media, and local newspapers. As a substantial landowner, the Trust consults, co-operates and liaises with key local community groups including Braemar Community Council, Braemar Community Limited and Braemar Tourism Group.

The views of visitors and interested groups are also sought, and are used to inform future decision-making, including volunteers, wedding guests, bothy visitors and campers, as well as stalkers, fishers and shooters.

Conclusion

Mar Lodge Estate is one of the country’s most important natural heritage assets, recognised for its wild character, its biodiversity and geodiversity, and its potential for landscape-scale regeneration. The goal is for the estate to be recognised as a “place for everyone”, that they understand and value the essential wild character of much of the land, which provides a place for people to live and work, to find physical and spiritual refreshment, and to feel inspired and challenged by their surroundings.

PRINCIPLE 5

There should be improved transparency of information about the ownership, use and management of land, and this should be publicly available, clear and contain relevant detail.



There are 1.4 million hectares of forestry in Scotland, covering 18% of the land area. This compares with the EU average of 32% forest cover.



There are 965,000 hectares of privately owned forest in Scotland.

Decisions about land can impact on local businesses, employment, housing, and public services. Information about land and buildings provides the foundation for open and transparent decision-making by public and private sector organisations, communities and individuals. Provision of information can also enable participation, which is a key element of the human rights framework.

Better information about land, in both urban and rural environments, can help with more informed decision-making, efficient land use and management, and creating benefit for the local economy, environment and society. For example, individuals or communities may wish to engage with the owner of land on a range of issues such as access, or development plans. Many land owners and decision-makers are open and actively engaged with their communities, but this is not universal. In some cases the owner or decision maker in relation to land is not always clear which can hinder engagement and resolution.

In relation to land use and management, the aim of this principle is to ensure that reasonable and helpful information is made available in a clear and accessible fashion; that is, information that is helpful and relevant to local people and communities in dealing with problems or taking issues and ambitions forward.

What we are already doing

- The Scottish Government's [Open Data Strategy](#) states our aim to make non-personal and non-commercially sensitive data available, via the internet, in a format which allows it to be easily used.
- The Scottish Government and the Registers of Scotland are currently developing ScotLIS, an online land and information system that will allow anyone access to comprehensive information about any piece of land or property in Scotland through a simple, single online search. This should be in place by the end of 2017.
- In May 2014, Scottish Ministers announced the target of registering the ownership of all of Scotland's land by 2024. All public land is to be registered by 2019.

- The Scottish Government is developing proposals for a Register of Controlling Interests which will give further information about persons who have controlling interests in owners and tenants of land, and which will implement Part 3 of the Land Reform (Scotland) Act 2016.
- Other publicly held data is made accessible by mapping tools such as the National Biodiversity Network's [Atlas of Living Scotland](#), and those managed by [Marine Scotland](#) and [Scotland's Environmental Web](#).
- The Community Empowerment (Scotland) Act 2015 requires all relevant authorities in Scotland to publish a register of the land and buildings they own or lease. For example Forest Enterprise Scotland has published a new map-based [Register of Land](#), showing the forests, land and buildings that make up Scotland's National Forest Estate.
- [Part 8 of the Community Empowerment \(Scotland\) Act 2015](#) contains provisions requiring each local authority to establish a register of common good property and to consult communities before disposing of any common good property or changing its use. In fulfilling those duties local authorities will be required to have regard to guidance from the Scottish Government. The Scottish Government is currently [consulting](#) on the content of that guidance. That consultation will end on 29 September 2017. The Scottish Government will then consider the responses to the consultation before finalising and issuing the guidance and bringing the statutory duties into force.

CASE STUDY

Alvie and Dalraddy Estates

The Land Register seeks to catalogue the ownership of all of Scotland's land by 2024 (and all public land by 2019). At present, when any land is sold it must be entered onto the register by the new owner. However, this does mean that much of the land is not registered due to it not having changed ownership during the lifetime of the register.

There are, however, land owners who see the benefits of registering their land and are making steps to do so of their own accord.

The Alvie and Dalraddy Estates, near Aviemore, are owned by the Williamson family and managed by Jamie Williamson. Following a meeting with Registers of Scotland (RoS) in 2015, Jamie began the process of registering his land.

Taking the initiative to register the land at Alvie and Dalraddy, Jamie has been able to oversee the whole process. In doing so he believes he will secure a favourable result for himself, his neighbours and the wider community.

Working closely with RoS, Jamie was guided as to the best way to complete the registration process and, with the help of his staff, successfully digitised old documents such as maps and titles so that they were ready for use by the RoS team.

This process has also highlighted some inconsistencies in terms of boundaries. These have resulted in discussions with the relevant neighbours to establish clarity about the exact extent of the estate.

In registering his land, Jamie sees advantages for both him and his neighbours. Having clear and agreed boundaries set out on the Land Register will make any future sales of land or buildings much more straightforward than otherwise might have been the case. This clarity helps to smooth such processes which, in turn, saves money and allows for a more efficient and easier to manage estate in the future.



PRINCIPLE 6

There should be greater collaboration and community engagement in decisions about land.



There are approximately 21,602km of designated core paths in Scotland.



£79.5m a year could be saved by NHS Scotland if just 1 in 100 inactive people in the Central Scotland Green Network Area took adequate exercise.

Participation enables an evolving process in which a changing society determines what the relationship is between land and people.

Decisions relating to land and buildings can have social, economic and environmental impacts on local communities. Wide public engagement on decisions taken in relation to land and buildings can help to build trust between the land owners, land managers, communities and others with an interest in land and secure better outcomes for communities and landowners.

In practice, strong relationships between those who manage or own land and buildings, and the affected communities helps foster mutual understanding of the issues. Good engagement supports communities to express themselves and become involved in the decisions that affect them.

Engagement enables land owners, land managers and communities to develop positive and co-operative working relationships. This can lead to creative and innovative solutions to issues, and better economic, environmental, social and cultural outcomes for all parties.

It is also important that land owners and communities also look outward, to their neighbours, wider society and the interconnected world within which we all now live. Wide ranging engagement and collaboration is necessary to make positive progress on land reform issues, in a mutually beneficial way. It also supports productive debates on how Scotland meets the challenges we face in the 21st century such as environmental changes originating from climate change and the implications associated with the UK Government's decision to take the UK out of the European Union.

What we are doing

This principle will be complemented by guidance on Engaging Communities in Decisions Relating to Land, to be issued under Part 4 of the Land Reform (Scotland) Act 2016. A Scottish Government consultation on draft guidance for engaging communities in decisions relating to land was published on 24 March 2017. The consultation closed on 16 June and the Scottish Government intend to publish the guidance in Spring 2018.

In addition, this principle will be supported by the following policies and publications:

- The [National Standards for Community Engagement](#) were reviewed and updated in 2015-16 in order to reflect the developing legislation and policy relating to community empowerment.
- The National Standards for Community Engagement are supported by [VOICE](#), a digital tool to assist individuals, organisations and partnerships with delivering meaningful community engagement.
- The [Low Carbon Scotland: Public Engagement Strategy](#) was created in recognition of the fact that achieving Scotland's climate change targets can only be done through a joint approach, with contribution from government, private, public and community organisations and individuals.
- The [Place Standard](#) is an assessment tool for evaluating the strengths and challenges that exist in a particular place, in order to support communities and the public sector, private sector and third sector to work together to deliver high-quality, sustainable places.
- Since 2011-12, our Design Charrettes Programme and Activating Ideas Fund has provided funding to support 68 projects that enabled communities to participate in the improvement of their places. For 2017-18, £250,000 is available via a grant fund to support a broad range of participative design events including charrettes. Support will also be provided to build capacity in communities who are not yet at the point of staging a design event. Assistance will also be provided to help communities deliver projects that have arisen from previous design events.
- Our response to the independent review of the planning system has a strong focus on improving how communities are engaged and involved in planning the future development of their local areas. In the forthcoming Planning Bill we propose to create a statutory link between development planning and community planning and also to create a new right for communities to prepare their own local place plan, setting out a shared vision for how their community should develop in line with the local development plan.
- Under the [Local Government in Scotland Act 2003](#), local authorities, health boards, the enterprise networks, police, fire and regional transport partnerships have a duty to carry out Community Planning, working in concert with the community to plan and deliver better services.
- Participation requests are a new process which will allow a community body to enter into dialogue with public authorities about local issues and local services.

CASE STUDY

Coigach & Assynt Living Landscape (CALL)

CALL is one of the largest landscape-scale restoration projects in Europe, covering 635 square kilometres. The project area has some of the most dramatic and instantly recognisable landscapes in the British Isles and within these, some of the rarest and most important habitats.

Initial discussions on how to bring a positive change to the landscape were initiated in 2009 by the Scottish Wildlife Trust under the banner of the CALL. A long term vision was created following extensive consultation with both community organisations and landowners: *“It is 2050; the communities of Coigach and Assynt are working together to achieve a truly living landscape through improved understanding of their environment and the impacts of climate change; shared active management providing a diverse range of connected and resilient habitats; creation of local employment and training opportunities, and; building on the communities’ strong cultural heritage linked to the land.”*

In 2012 a Memorandum of Cooperation formally founding the Coigach & Assynt Living Landscape was signed. The five initial landowner members were Assynt Foundation, Culag Community Woodland Trust, Eisg Brachaidh Estate, John Muir Trust, and the Scottish Wildlife Trust. The initial partnership has grown to 14 Partner organisations with the addition of Assynt Field Club, Coigach Community Development Company, Coigach Salmon Fisheries Limited, Historic Assynt, Isle Martin Trust, Kylesku Estate, North-West Highlands Geopark, Tanera Mor, and West Sutherland Trust. In 2015 the CALL successfully secured substantial funding from the Heritage Lottery Fund, Land Fund, and others to add impetus to the first phase of the implementation plan.

Twenty-eight projects are being taken forward by the partnership covering heritage (natural and cultural), people (skills development and volunteering) and communities (sustainability and place-making). Highlights in the first year include:

- Woodland restoration – over 100 ha of new, mixed native woodland including some open ground and riparian habitats established. This is stimulating others in the community to consider woodland creation and/or restoration. The Little Assynt Tree Nursery produces trees and shrubs from native stock for these planting schemes and elsewhere in the North-West Highlands.
- Glencanisp Lodge – creation of a new 450 metre circular nature trail at the Lodge that enables people to learn about the nature of the area using a trail leaflet.
- Footpath repairs – Suilven (2km) and Quinag (1.7km) of approach and ascent path repaired, protecting the environment and allowing members of the public to access the iconic summit.
- Clachtoll Broch – initiation of works to restore this iconic, scheduled ancient monument and improve interpretation and the overall visitor experience.
- Outdoor and Woodland Learning project – outdoor education classes for local schools, ranging from pre-schools and nurseries to the high school. One of the projects focuses on a “Hill to Grill” programme where pupils are taught by professional stalkers and learn tracking techniques and butchering methods on the hill before having cooking sessions at the school.
- Community Grants Scheme – has been established awarding, in its first year, grants totalling £24,183 to 10 local groups. The grants cover a wide range of both natural and cultural projects.

Annex A Human Rights Considerations



ANNEX A

Human Rights Treaties and International Principles relevant to the Scottish Land Rights and Responsibilities Statement

Scotland is committed to implementing international treaties signed and ratified by the United Kingdom. These treaty obligations are directly relevant to the way modern Scottish society functions. Some of the most important commitments deal with human rights and with themes such as equality, dignity and social justice. This annex outlines how key human rights instruments and international goals are relevant to the way land is used, owned and managed in Scotland, and the associated rights and responsibilities that go with that.

Human rights in relation to land include both core civil and political rights (e.g. the protection of private property) and wider economic, social, cultural and environmental rights.

The Land Reform Act (Scotland) 2016 (the 2016 Act) defines relevant human rights as such human rights as the Scottish Ministers consider to be relevant to the preparation of the Statement. More specifically, it defines human rights as including the European Convention on Human Rights (within the meaning of section 1 of the Human Rights Act 1998), and 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 (ICESCR).

The 2016 Act also requires Scottish Ministers to have regard to the desirability of promoting respect for such internationally accepted principles and standards for responsible practices in relation to land as the Scottish Ministers consider to be relevant. This is to include the UN Voluntary Guidelines on the Responsible Governance of Tenure (VGGTs).

Having given consideration to various international human rights treaties and to international principles, the Scottish Government has decided that there are relevant human rights, for the purpose of the present Statement, within the European Convention on Human Rights (ECHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Elimination of All Forms of Discrimination Against Women (Cedaw).

In terms of international principles, the Scottish Government believes that UN VGGTs and the UN Sustainable Development Goals are relevant.

European Convention on Human Rights (ECHR)

Important human rights identified in the ECHR are an integral part of the law of Scotland. The Scotland Act 1998 requires that all legislation of the Scottish Parliament and all actions of the Scottish Ministers are compatible with rights contained in the ECHR (“Convention rights”). In addition, the Human Rights Act 1998 requires every public authority in Scotland to act compatibly with the Convention rights and enables human rights cases to be heard in domestic courts.

The Scottish Government reviewed the Convention rights, and in preparing the Statement, took the decision that the following Convention rights were relevant:

Article 1 of Protocol 1 (A1P1)

A1P1 protects the right of persons to enjoy their property peacefully.

In general the Scottish Government wants to use the Statement to promote a Scotland in which more people, including as home owners, are able to own and enjoy land and buildings, as forms of property, peacefully. This provides a sense of security for individuals and confidence for business, and informs Principle 1 of the Statement, which emphasises fairness and social justice, and Principle 2 of the Statement, which promotes more diversity of ownership.

A1P1 rights are not, however, absolute rights. Interference with this right can be permitted in certain circumstances if certain conditions are met, including that the interference is proportionate and in the public interest.

Article 14, Protection from Discrimination

This parallels the requirement under section 1(3)(c) of the 2016 Act to have regard to the desirability of encouraging equal opportunities (within the meaning of Section L2 of Part 2 of schedule 5 of the Scotland Act 1998). As can be seen from Principle 1 of the Statement, one of its key aims is to promote fairness and social justice.

International Covenant on Economic, Social and Cultural Rights (ICESCR)

Economic, social and cultural rights are fundamental to a life of dignity and to the fulfilment of a wide spectrum of other fundamental human rights.

The Scottish Government took the decision that the following human rights in ICESCR were desirable for promotion through the Statement:

Articles 1, 2 and 3

These three articles deal with fundamental human rights including the rights to self-determination, non-discrimination and equality. They parallel Article 1 of the Universal Declaration of Human Rights (which is not in itself legally binding). Article 2 also requires states to take steps, to the maximum of its available resources, to implement the articles of ICESCR.

Articles 1, 2 and 3 are relevant for the Statement, insofar as land is an enabling resource to support individual and social development. In particular these three articles support Principle 1 of the Statement, which emphasises fairness and social justice.

Article 6 – The Right to Work

This is defined as the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts. The state should take appropriate steps to safeguard this right. The steps to be taken by a state party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 6 is relevant to the Statement insofar as land is a key enabling resource, and decisions about land can block or unblock economic opportunities, including the opportunity to work.

Article 11 – Standard of Living

11.1 recognises the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.

11.2 recognises the fundamental right of everyone to be free from hunger, and requires states to take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

Article 11 is important for the Statement because it relates directly to issues that land can have a bearing on, such as standard of living, food, clothing, housing and living conditions. In addition, land is a key resource in relation to how Scotland manages its food production systems, both internally and on the international stage.

Article 12 The Right to Health

Article 12.1 is relevant. “The State Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.” It is the Scottish Government’s view that Article 12.1 is relevant because a high quality environment and the way land is used can have an impact on individual health, and the availability of land for housing etc. has a significant indirect influence.

Article 13 – The Right to Education

Article 13 is relevant insofar as the way land is owned, used and managed can enable or restrict everything from the ability to build schools to opportunities to acquire vocational experience.

Article 15 – Cultural life and enjoyment of Scientific Benefits

In particular the Scottish Government is of the view that Article 15.1(a) and (b) are relevant in the Statement context. 15.1 requires that State Parties to the covenant recognize the right of everyone:

- (a) To take part in cultural life;
- (b) To enjoy the benefits of scientific progress and its applications;
- (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 15.1 (a) and (b) are particularly relevant to the Statement because land is a necessary ingredient in cultural life, not only for practical reasons, relating to provision of land for sports fields, community hubs and religious centres, etc, but also because in and of itself land in Scotland carries cultural significance. For instance, in the formation of our sense of identity as individuals, communities, and as a nation.

Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)

Article 14 – Makes specific reference to ending discrimination against women in rural areas. Article 14 includes specific acknowledgement of women’s role in the non-monetised aspects of the economy, ensuring women benefit equally with men from any rural development programmes, and, among other things, that women have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reforms as well as in land resettlement schemes.

The Scottish Government took the view that Article 14 of CEDAW is important for the purposes of promotion via the Statement because of the need to ensure that women play a full social and economic role in rural life, and benefit from any government supported rural programmes.

United Nations Sustainable Development Goals (SDGs)

Scotland was one of the first nations in the World to sign up to the United Nations Sustainable Development Goals (SDGs), and make a dual commitment to tackle poverty and inequality in Scotland, and to help developing countries to grow in a fair and sustainable manner.⁵

The SDGs are not legal obligations and do not impose requirements on Scotland in the same way as the ECHR or formal international treaties. The Scottish Government will however work to implement the SDGs domestically through the National Performance Framework and through targeted, policy-specific action.

The 17 SDGs goals aim to tackle key barriers to sustainable development such as inequality, unsustainable consumption and production patterns, inadequate infrastructure and lack of adequate employment. These issues are also reflected in the Scottish Land Rights and Responsibilities Statement.

United Nations' Voluntary Guidelines on the Responsible Governance of Tenure (VGGTs).

The interrelation of property and tenure rights with wider human rights underpins the Food and Agriculture Organisation of the United Nations' Voluntary Guidelines on the Responsible Governance of Tenure (VGGTs). The goal of the VGGTs is to support the progressive realisation of the right to adequate food and national food security. Within this context they promote secure tenure rights and equitable access to land, fisheries and forests, as a means of eradicating hunger and poverty, supporting sustainable development and enhancing the environment. The VGGTs are voluntary guidelines and do not have any legal force. It is also important to note that national implementation will be guided by national circumstances. The VGGTs contain the principle of "responsible investment." They state that responsible investments "should do no harm," and are defined as recognising wider policy objectives around providing benefit to the country and its people; responsible investments should be acknowledged by Government and non-government bodies.

United Nations' Guiding Principles on Business and Human Rights

Both the rural and urban activities of business enterprises can have impacts on human rights. The UN Guiding Principles on Business and Human Rights reach beyond the existing obligations of public authorities to respect, protect and fulfil human rights and recognise the important contribution which the private sector can also make. Businesses need to comply with applicable laws and to act in ways that respect human rights. They also need to ensure that they have internal management systems which are effective in preventing potential abuses, and where problems do arise they should act promptly and effectively to resolve issues.

Please see the following web link for more detail: [Protect, Respect and Remedy Framework for Business and Human Rights](#)

Scotland is currently working towards the creation of an implementation plan for the UN Guiding Principles.

⁵ For more information see: Sustainable Development Goals Background Note, The Scottish Government, Feb. 2016. <http://www.gov.scot/Topics/International/int-dev/IDconsultation/SDGsbackground>

Further Notes

It should be noted that, in addition to human rights there are further rights related to land under Scots law. For example, individuals have the right to responsible access to land,⁶ communities can apply for a pre-emptive right-to-buy,⁷ and will have a right-to-buy for the purposes of sustainable development once Part 5 of the Land Reform (Scotland) Act 2016 is brought into effect,⁸ or request asset transfer from public sector bodies.⁹ Rights can also be granted by contracts, such as under tenancy or loan agreements. These rights can interact in complex ways, for instance landlords and tenants have A1P1 property rights and a community group may have rights both as a tenant, and through a pre-emptive right to buy.

This is not a comprehensive list and the Statement does not seek to provide detailed guidance on the balance of rights or how land rights and responsibilities might be interpreted in any particular case.

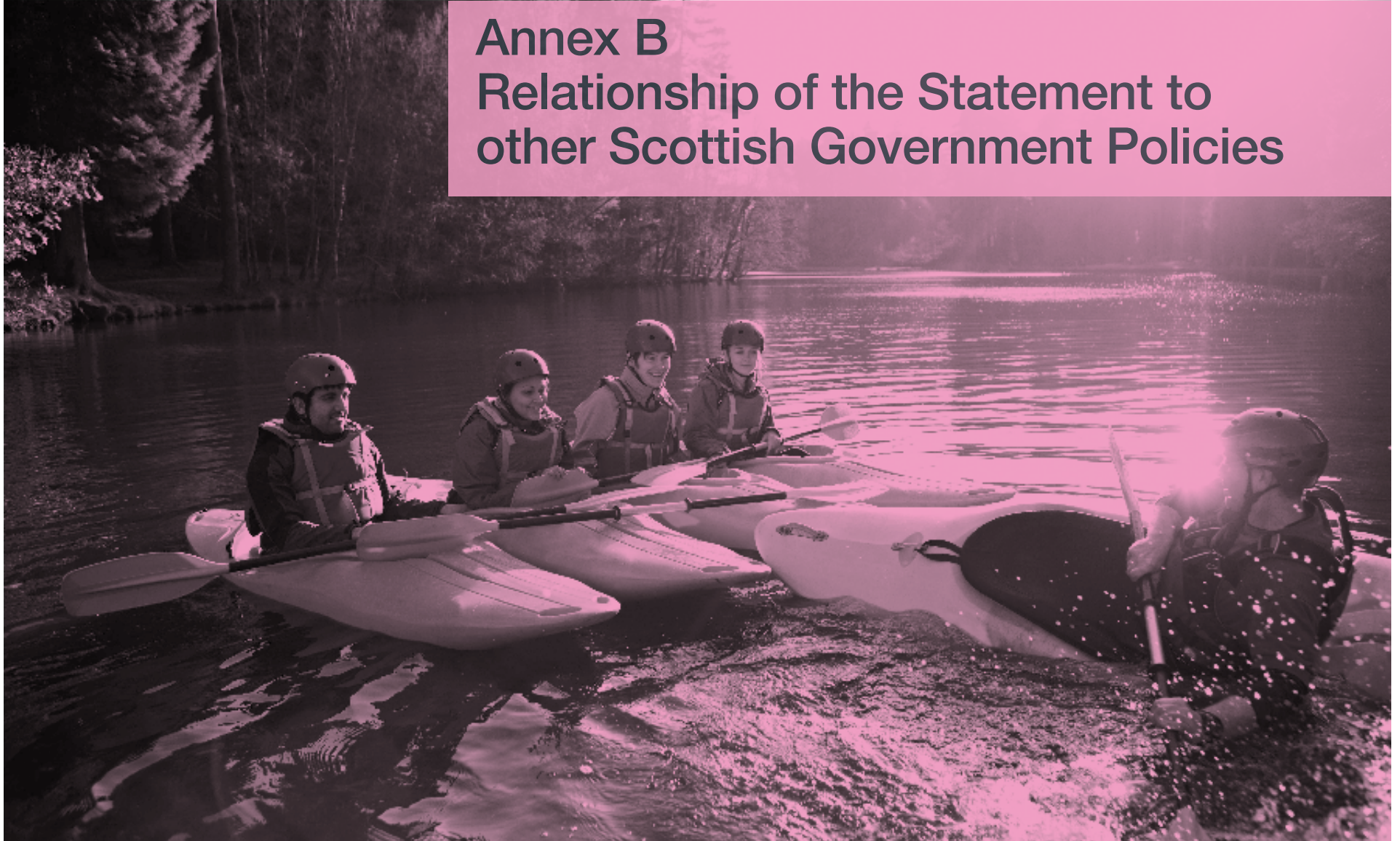
6 Part 1 of the [Land Reform \(Scotland\) Act 2003](#).

7 Part 2 of the [Land Reform \(Scotland\) Act 2003](#), as amended by Part 4 of the [Community Empowerment \(Scotland\) Act 2015](#).

8 Part 5 of the [Land Reform \(Scotland\) Act 2016](#).

9 Part 5 of the [Community Empowerment \(Scotland\) Act 2015](#).

Annex B Relationship of the Statement to other Scottish Government Policies



ANNEX B

The Scottish Land Rights and Responsibilities Statement Policy Context

This table sets out the relationship between the Scottish Land Rights and Responsibilities Statement and other key Scottish Government policy and strategy documents. The table includes those documents most closely related to the Scottish Land Rights and Responsibilities Statement; however, due to breadth of policy areas and topics which are relevant to land, the table cannot be fully comprehensive. It should be noted that the influence of related policies and strategies may run up and down the vertical hierarchy, as well as horizontally.

Human Rights and International Standards	European Convention on Human Rights International Covenant on Economic, Social and Cultural Rights Voluntary Guidelines on the Governance of Tenure United Nations Sustainable Development Goals										
National Performance Framework	Purpose	The Purpose of the Scottish Government is to focus government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth.									
	Selected National Outcomes	<ul style="list-style-type: none"> ■ We live in a Scotland that is the most attractive place for doing business in Europe. ■ We have tackled the significant inequalities in Scottish society. ■ We reduce the local and global environmental impact of our consumption and production. ■ We live in well-designed sustainable places where we are able to access the amenities and services we need. ■ We value and enjoy our built and natural environment and protect and enhance it for future generations. ■ We have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others. ■ Our public services are high quality, continually improving, efficient and responsive to local people's needs. 									
National Plans and Strategies	Scotland's Economic Strategy										
	Fairer Scotland Action Plan										
	Scotland's National Action Plan for Human Rights										
Land Strategies	Scottish Land Rights and Responsibilities Statement			Land Use Strategy			National Marine Plan			National Planning Framework 3	
Related National Policies	2020 Challenge for Scotland's Biodiversity	Climate Change Plan 2017*	Creating Places: a policy statement on architecture and place	Flood Risk Management Plan for Scotland	Guidance on Engaging Communities*	Homes Fit for the 21st Century	Low Carbon Scotland	National Islands Plan*	National Peatland Plan	National Transport Strategy	Our Place in Time: the Historic Environment Strategy for Scotland
	Physical Activity Implementation Plan: A More Active Scotland	Pollinators Strategy	Regeneration Strategy	River Basin Management Plans	Scottish Rural Development Programme	Scotland's National Food & Drink Policy: Becoming a Good Food Nation	Scottish Forestry Strategy	Scottish Planning Policy	Scoping report on a Strategic Vision for the Uplands	The Future of Scottish Agriculture: a discussion document	The Scottish Plant Health Strategy

*the document is proposed or under development



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