

ELIZABETH II



1970 CHAPTER 28

An Act to confer on local authorities in Scotland power to take over the control and maintenance of certain footpaths, and to construct and maintain certain footpaths; to authorise local authorities in Scotland to acquire or maintain certain open spaces; and for connected purposes. [29th May 1970]

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

- 1.—(1) A local authority may enter into an agreement—
- (a) with any owner of land associated with or forming part of a development on which there is or is to be constructed a footpath associated with that development, or
  - (b) where a person other than the owner of the land is or will be responsible for the maintenance or construction of such a footpath, with that other person,

Power of local authority to take over footpaths associated with development.

whereby, if the footpath is made up to the satisfaction of the authority, they shall take over the control and maintenance of the footpath.

(2) Where any owner, or other person, who is a party to such an agreement as is mentioned in the foregoing subsection has failed within such reasonable period as is specified by the local authority to make up the footpath to the authority's satisfaction, they may themselves carry out the work and recover the necessary expenses from that owner, or other person, as the case may be.

(3) Where the local authority are of the opinion that it is not reasonably practicable for them to enter into such an agreement as is mentioned in subsection (1) of this section, they may

declare that the footpath is now under their control, and thereafter the footpath shall be controlled and maintained by them:

Provided that the local authority shall not exercise the power conferred on them by this subsection unless they have taken all reasonable steps to ascertain the identity of every owner of the footpath and have obtained the consent of at least a majority of those owners whose identity they have ascertained.

Power of local authority to construct and maintain footpaths associated with development.

2. A local authority shall have power to construct and maintain footpaths associated with or forming part of a development.

Power of local authority to acquire or maintain certain open spaces.

3. A local authority may, for the purpose of preserving or improving the amenity of land forming an open space,—

(a) acquire the land by agreement, or

(b) without acquiring the land, undertake the entire or partial control and maintenance of that open space:

Provided that the local authority shall not exercise the power conferred on them by paragraph (b) of this section unless they have taken all reasonable steps to ascertain the identity of every owner of the open space and have obtained the consent of at least a majority of those owners whose identity they have ascertained.

Financial provisions.

4. There shall be paid out of moneys provided by Parliament any increase attributable to this Act in the sums payable out of moneys so provided under any enactment relating to local government in Scotland.

Interpretation.

5. In this Act—

“carriageway” means a way, other than a cycle track, over which the public have a right of passage for vehicles;

“development” means residential or commercial building operations which will be, are being or have been carried out on land;

“footpath” means a way over which the public have a right of passage on foot only, but does not include a footpath associated with a carriageway;

“local authority” means a town council or a county council; and

“open space” means an open space forming part of the lay-out of a development but excludes land laid out for the purposes of public recreation.

6.—(1) This Act may be cited as the Local Government (Footpaths and Open Spaces) (Scotland) Act 1970. Short title and extent.

(2) This Act shall extend to Scotland only.

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