

**KNOW THE CODE BEFORE YOU GO**

SCOTTISH OUTDOOR ACCESS CODE [www.outdooraccess-scotland.scot](http://www.outdooraccess-scotland.scot)

- take responsibility for your own actions
- respect the interests of other people
- care for the environment.

**Enjoy Scotland's outdoors responsibly**

The Land Reform (Scotland) Act 2003 required Scottish Natural Heritage to produce an Access Code to establish what is meant by 'responsible conduct' for those taking access and what is expected of landowners. The Access Code replaces the Countryside Code in Scotland and is freely available online.

## SCOTTISH OUTDOOR ACCESS CODE

Ultimately, it is for the courts to decide whether a route meets the necessary conditions to be a right of way. However, any route that meets the above conditions is a right of way, and no further action is needed. ScotWays works with local authorities and local communities to record as many known rights of way as possible in the National Catalogue of Rights of Way (CROW).

- It must have been used without substantial interruption for at least 20 years.
- It must have been used, openly and peaceably, by the general public, as a matter of right, not just with the permission of the landowner
- It must follow a more or less defined route
- It must join two public places (e.g. public buildings such as kirk or schools, public roads, other rights of way)

## WHAT MAKES A RIGHT OF WAY?

To be a right of way, a route must meet all the following conditions:



## FURTHER INFORMATION & ADVICE

### Specific guidance for your activity

- WALKING  
[www.ramblers.org.uk/scotland](http://www.ramblers.org.uk/scotland)
- MOUNTAIN BIKING  
[www.dmbins.com/riders/do-the-ride-thing](http://www.dmbins.com/riders/do-the-ride-thing)
- HORSE RIDING  
[www.bhsscotland.org.uk/responsible-riding](http://www.bhsscotland.org.uk/responsible-riding)
- CANOEING  
[www.canoescotland.org/](http://www.canoescotland.org/)
- DOG WALKING  
[www.outdooraccess-scotland.scot/practical-guide-all/dog-walking](http://www.outdooraccess-scotland.scot/practical-guide-all/dog-walking)
- WILD CAMPING  
[www.outdooraccess-scotland.scot/practical-guide-all/camping](http://www.outdooraccess-scotland.scot/practical-guide-all/camping)

### Organisations

- Scottish Natural Heritage  
[www.nature.scot](http://www.nature.scot)
- Access Code  
[www.outdooraccess-scotland.scot](http://www.outdooraccess-scotland.scot)
- Ramblers  
[www.ramblers.org.uk/scotland.aspx](http://www.ramblers.org.uk/scotland.aspx)
- Sustrans  
[www.sustrans.org.uk/scotland](http://www.sustrans.org.uk/scotland)
- Heritage Paths  
[www.heritagepaths.co.uk](http://www.heritagepaths.co.uk)
- National Farmers Union Scotland  
[www.nfus.org.uk](http://www.nfus.org.uk)
- Scottish Land and Estates  
[www.scottishlandandestates.co.uk](http://www.scottishlandandestates.co.uk)

The right to use public rights of way and the rights of navigation on inland water and of recreation on the foreshore continue to exist alongside the relatively new access rights. Rights of way on land continue to be important because: Many rights of way exist through land where general access rights **do not** apply, e.g. through the curtilage of buildings, such as farm steadings and in urban areas

Landowners can apply limitations to general access rights for specific purposes (e.g. for land management needs or events), but no limitations can be applied to the use of rights of way, although people should still act responsibly when using them

Statutory means (i.e. applied by the access authority) of limiting the general right of access do not restrict the use of a right of way, although byelaws may affect how people can use it.

Many rights of way are important cross-county routes of great historic interest (such as ancient drove roads), dating back hundreds of years in some cases.

See [www.heritagepaths.co.uk](http://www.heritagepaths.co.uk) for more information on these routes.

## THE IMPORTANCE OF RIGHTS OF WAY



Each access authority is required to create a Local Access Forum. These are local representative bodies with a responsibility to advise the access authorities on any access matters, help prepare the core paths plan and offer assistance in any disputes. They do not have binding powers and are only advisory. At present, disputes may be resolved by agreement or by going to Court, which is expensive.

## LOCAL ACCESS FORUMS

## ABOUT THIS GUIDE

The Scottish Rights of Way & Access Society, (ScotWays), has produced this brief guide for those wanting to exercise their rights of access. It also covers the responsibilities of landowners. It explains how the law regulates the general public's access to Scotland's outdoors and helps you to know whether you are entitled to be somewhere, what you can do there and what to do if you come across issues.

This leaflet amalgamates the law from different sources and presents it in a simple form. However, it is not a detailed explanation of the law: for that, you should read our comprehensive guide, *The ScotWays Guide to the Law of Access to Land in Scotland*, published in 2018. It's available from our online shop at [www.scotways.com/shop](http://www.scotways.com/shop)

## ABOUT SCOTWAYS

ScotWays provides advice and guidance about all aspects of public access to land and inland water, and upholds access rights. We have also identified over 400 heritage paths and maintain the national register or national Catalogue of Rights of Way (CROW) which records over 7,000 rights of way. ScotWays has erected over 3,000 signposts – you can see our green and white signs on routes all over Scotland.

We know that many rights of way remain unrecorded, so if you are aware of any routes that might meet the criteria, do let us know.



ScotWays champions the right of access, but only when that access is taken responsibly. Access is a two-way street; it has to be observed responsibly by everyone.

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Local authorities and national park authorities are called 'access authorities' and have extensive powers and duties in relation to access rights. These include:

- Upholding the general right of access; creating and working with Local Access Forums; establishing and giving information to the public on core paths (but note that they have no duty to maintain or sign them); starting and defending legal proceedings to uphold access rights; dealing with impediments, such as locked gates, and signs which deny, restrict or deter access; providing safety measures, such as gates, signs, moorings etc.; suspending access for a particular purpose, such as a music festival; appointing Access Officers or Rangers to advise and assist landowners and members of the public.

Where an access authority is also a planning authority then they have powers and duties for rights of way. These include:

- Keeping rights of way open and free from obstruction; approving the installation of stiles; providing signposts.

## ACCESS AUTHORITIES

Most people have heard of **rights of way**. They are traditional routes that are established under our common law and there is no single statute governing them.

Some people call this the "right to roam". A better name would be the "right of responsible access" – the new rules did not establish a free-for-all.

Europe.

to access which is amongst the most comprehensive in on other existing rights. The outcome is a modern approach commercial access. It built upon Scottish traditions of by allowing for recreational, educational and, in some cases, which came into force in February 2005. It liberalised access Scottish Parliament – The Land Reform (Scotland) Act 2003, This statutory right of access was created by Act of the

There is a **general right of access** to all land and inland water in Scotland, although some land is excluded from access altogether and where access is allowed people must behave in a responsible manner.

## ACCESS RIGHTS IN SCOTLAND

# Public Access in Scotland

Brief guide

– Know Your Rights

Where you can go  
What you can do



# Public access rights in Scotland

## WHAT RIGHTS DO I HAVE?

**General right of access.** You have the right to cross and to be on land for recreational, educational and certain commercial activities. This applies to most land and inland waters in Scotland, as long as you behave responsibly. It does not require the consent of the landowner or tenant and they may not hinder or block responsible access. These rights apply to non-motorised users (e.g. walkers, runners, cyclists, equestrians, kayakers, wheelchair users) and to the users of vehicles adapted for and used by people with a disability, such as mobility scooters. In some cases, access may have been established for motorised vehicles.

**Rights of way.** You have the right of passage – that is the right to go along a track or path from one public place to another. At a minimum, a right of way is for walking, but may also be for use by horse riders, cyclists or even, in a few instances, by vehicle; it depends on what rights have been established.

**Access to the foreshore.** You have the right to be on the shore between the high and low water marks.

## WHERE CAN I GO?

When travelling by any non-motorised means (e.g. cycle, foot, horse, kayak) or on a motorised vehicle modified for and used by a disabled person (e.g. mobility scooter):

- Using the **general right of access**, you can go almost everywhere – above, below and on the surface. So, potholing, paddling and paragliding are as legal as cycling or walking
- On a **right of way**, you must stay on the path or track. In open country there may not be a visible one: stick to the general line
- On any core paths

(**Core Paths** are networks of routes established following consultation and shown on the Core Path Plans produced by the access authorities)

## WHERE CAN'T I GO?

Under the **GENERAL RIGHT OF ACCESS** you **DO NOT** have the right to access:

- Land around a private dwelling sufficient for undisturbed enjoyment by the residents
- Buildings and the immediate areas around them (curtilage)
- Land with structures, works, plant or fixed machinery on it and any enclosure around them
- School grounds
- Caravan parks, campsites etc
- Land with growing crops (although you may go along the margins of fields)
- Sports grounds when they are being used for their particular recreational purpose. Access rights **never** apply to specially prepared sports surfaces, such as golf and bowling greens, cricket squares and tennis courts.
- Visitor attractions where the public pay for admission (depending on use on 31 January 2001!)
- Land on which building, civil engineering, demolition work or quarrying is being carried out
- Areas of land where access rights have been removed by the access authority for a short period, e.g. to allow a special event to take place
- Land that has been excluded from access rights by the government for defence or national security reasons.

Note: The exercise of access rights may be restricted in specific areas under other statutes and through byelaws.

### RIGHTS OF WAY

- If a right of way goes through an area where general access rights do not apply, you must not stray from the right of way unless there is an obstruction, e.g. a flood or a fallen tree.

### DOGS

Walking your dog must also be done responsibly. Out of control dogs are a particular issue. The Scottish Outdoor Access Code advises people not to take dogs into a field where there are young animals or where vegetables or fruit are grown. Dogs should be kept on a lead or under close control and faeces must be removed.



## WHAT CAN I DO?

Under the **GENERAL RIGHT OF ACCESS**, you can do the following:

- 'Right of Passage' - crossing land or water, not restricted to a direct route from A to B
- Educational activity – improving understanding of natural or cultural heritage
- Recreational activity – pastimes; family and social; active pursuits
- Wild camping – small groups, not in fields containing crops or livestock, well away from buildings and roads, only two or three nights in any one place, leaving no trace
- Commercial activity – only actions which can also be carried out on a non-profit basis, e.g. leading walking tours because walking can be enjoyed as a hobby.

### RIGHTS OF WAY

You have the right to go between one public place and another, following the right of way.

You must use the route in a way that has been established. For example, you cannot travel on a quad bike, when the route has been established by walking.

## WHAT CAN'T I DO?

When using the **GENERAL RIGHT OF ACCESS** you may not:

- Hunt, fish and shoot
- Have a dog out of control
- Take something from land for commercial purposes or profit
- Use a motor vehicle or vessel (unless it has been modified for and is being used by a disabled user)
- Be on land in contravention of a court order
- Interfere with responsible land management
- Interfere with or obstruct people who have a right to be there. These may be other users exercising their right of access, e.g. you can't play football in a place where a group is already playing frisbee; or obstruct a statutory undertaker, such as an electricity authority.
- On a golf course you may not carry out educational, recreational or commercial activities or cross the greens.

There may also be local rules or byelaws in place to regulate, for example, camping.

### RIGHTS OF WAY

You may only use a right of way (or part of it) to get from one place to another. You may not camp or fish, for example.

### LANDOWNERS

A landowner (or tenant) must use and manage the land in a way which respects the right of responsible access and rights of way. This includes not interfering unreasonably with those rights; for example, by placing a fixed barrier across a path. However, the landowner may, for example, stop or divert access for land management purposes, provided a suitable alternative is provided. Also, a landowner may not put up signs that unduly deter or restrict responsible access, e.g. 'Private', or 'Beware – Bull in Field' when there is no longer a bull in the field!

## WHAT IF I HAVE A PROBLEM?

If you come across some form of obstruction or deterrent on a right of way or where you believe access rights apply, here's what you can do\*

-  1. Note the exact nature and location of the obstruction with grid references and take pictures. Is the obstruction deliberate? \*\*
-  2. Do you know how long it has been there?
-  3. Who is affected? Everybody, or just one group of users, e.g. horse riders
-  4. Contact the relevant access authority. Explain the issue to them and pass on all the information that you have
-  5. Await response from the access authority. They may already be aware of the issue
-  6. Contact ScotWays if you have further queries about the route and/or access rights \*\*\*

You may wish to follow-up the issue with other interested bodies, such as a local paths group, community council or local politicians

\* This only refers to public rights of access. For issues such as a neighbour blocking access to your property, speak to your local council. \*\* It could be a fence or barrier, steps, a trench, off-putting signage or a land manager trying to deter you. If the obstruction is not intentional, e.g. a fallen tree, contact the land manager first, if you know who they are. Otherwise, contact the access authority \*\*\* ScotWays can offer advice, but has no statutory powers.