outbook Access cope outdooraccess-scotland.scot BEFORE YOU GO KNOW THE CODE

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

outdoors responsibly Enjoy Scotland's

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

ACCESS CODE SCOTTISH OUTDOOR

of Way (CROW).

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

for at least 20 years.

It must have been used without substantial interruption

permission of the landowner

the general public, as a matter of right, not just with the It must have been used, openly and peaceably, by

It must follow a more or less defined route

other rights of way)

It must join two public places (e.g. public roads,

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

WHAT MAKES A RIGHT OF WAY?

information on many of these routes. See www.scotways.com/heritage-paths for more back hundreds of years in some cases.

of great historic interest (such as ancient drove roads), dating Many rights of way are important cross-country routes

access rights.

including byelaws can affect how people can use their Statutory means (i.e. applied by the access authority)

although people should still act responsibly when using them but no limitations can be applied to the use of rights of way,

rights for specific purposes (e.g. for land management), Landowners can apply limitations to general access

buildings, such as farm steadings

access rights do not apply, e.g. through the curtilage of Many rights of way exist through land where general

Rights of way on land continue to be important because: continue to exist alongside the relatively new access rights. navigation on inland water and of recreation on the foreshore The right to use public rights of way and the rights of

YAW 70 THE IMPORTANCE OF RIGHTS



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

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 access rights. 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

ABOUT SCOTWAYS

ScotWays provides guidance about all aspects of public access to land and inland water, and upholds access rights. We also promote over 400 heritage paths, maintain the national Catalogue of Rights of Way and ScotWays has erected over 5,000 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 used responsibly. Access is a two-way street; the rights need to be observed responsibly by everyone.

The Scottish Rights of Way & Access Society (ScotWays) 24 Annandale Street Edinburgh EH7 4AN

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PAS/09/2019 revised 07/2022



Design: Neil Braidwood · Photography: Richard Barron

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.

Where an access authority is also a planning authority then and members of the public. Access Officers or Rangers to advise and assist landowners

particular purpose, such as a music festival; appointing as gates, signs, moorings etc; suspending access for a restrict or deter access; providing safety measures, such with problems, such as locked gates, and signs which deny, defending legal proceedings to uphold access rights; dealing have no duty to maintain or signpost them); starting and information to the public on core paths (although they working with Local Access Forums; establishing and giving Upholding the general right of access; creating and

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

ACCESS AUTHORITIES

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

did not establish a free-for-all.

would be the "right of responsible access" - the new rules Some people call this the "right to roam". A better name

to access which is amongst the most comprehensive in on other existing rights. The outcome is a modern approach access, on the network of long-established rights of way, and 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

rights it they exercise them responsibly. access altogether. People only have these general access water in Scotland, although some land is excluded from There is a general right of access to all land and inland

ACCESS RIGHTS IN SCOTLAND



Brief guide

- Know Your Rights

Where you can go What you can do



Upholding public a



FURTHER INFORMATION & ADVICE

Specific guidance for your activity

www.ramblers.org.uk/scotland

MOUNTAINEERING

www.mountaineering.scot MOUNTAIN BIKING

www.dmbins.com/riders/do-the-ride-thing

HORSE RIDING

www.bhs.org.uk/bhs-in-your-area/scotland

CANOEING

DOG WALKING

www.outdooraccess-scotland.scot/practical-guide-all/ dog-walking

WILD CAMPING

www.outdooraccess-scotland.scot/practical-guide-all/ camping

General information

NatureScot

www.nature.scot

Scottish Outdoor Access Code

www.outdooraccess-scotland.scot

Sustrans Scotland

www.sustrans.org.uk/scotland

Heritage Paths

www.scotways.com/heritage-paths

National Farmers Union Scotland www.nfus.org.uk

Paths for all

www.pathsforall.org.uk

Scottish Land and Estates

www.scottishlandandestates.co.uk



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.

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 motorised 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 1 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 1 GO?

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

- Buildings, most structures or works, plant, fixed machinery and the enclosures or land immediately surrounding them.
- Houses, caravans, tents, structures giving privacy or shelter.
- Land around a private dwelling sufficient for reasonably undisturbed enjoyment of that dwelling by the residents.
- School grounds.
- 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
- 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 should 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 problem and people with out of control dogs have no right of access. 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, no more than 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 follow the right of way in part for from end to end.

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 only.

WHAT CAN'T I DO?

When using the GENERAL RIGHT OF ACCESS you may not:

- Hunt, fish or shoot.
- Have a dog out of control.
- Take something from land for commercial purposes or profit.
- Use a motorised 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?

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



issue

5. Await response from the access authority. They may already be aware of the

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 guidance, but has