



Enjoy Scotland's outdoors responsibly

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

The Land Reform (Scotland) Act 2003 required Scottish Outdoor Access Code (SOAC) to produce the Scottish Outdoor Access Code (SOAC) to establish what is meant by 'responsible conduct' for those taking access and what is expected of landowners.

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 all the above conditions is a right of way, and no further action is needed. ScotWays works with access 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 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:

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

- Landowners can apply limitations to general access rights for specific purposes (e.g. for land management), 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) including bylaws can affect how people can use their access rights.
- Many rights of way are important cross-country routes of great historic interest (such as ancient drove roads), dating back hundreds of years in some cases.

See www.scotways.com/heritage-paths for more information on many of 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 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

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

- Upholding public access rights; creating and working with Local Access Forums; establishing and giving information to the public on core paths (although they have no duty to maintain or signpost them); starting and defending legal proceedings to uphold access rights; dealing with problems, 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 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

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

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.

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.

ACCESS RIGHTS IN SCOTLAND

This brief guide explains how the law regulates public access to Scotland's outdoors. It 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.

ABOUT THIS GUIDE



ASK KEN

If this guide doesn't answer all your outdoor access queries, why not ask Ken, the ScotWays knowledge base? Ken includes articles on a wide range of access-related topics. scotways.com/ken

Alternatively, read our comprehensive book, *The ScotWays Guide to the Law of Access to Land in Scotland*, available from scotways.com/shop

FURTHER INFORMATION & ADVICE

- WALKING ramblers.org.uk/scotland
- MOUNTAINEERING mountaineering.scot
- MOUNTAIN BIKING dmbins.com/do-the-ride-thing
- HORSE RIDING bhs.org.uk/scotland
- CANOEING paddlescotland.org.uk
- DOG WALKING outdooraccess-scotland.scot/dog-walkers
- WILD CAMPING outdooraccess-scotland.scot/camping
- NATURESCOT nature.scot
- SUSTRANS sustrans.org.uk/scotland
- HERITAGE PATHS scotways.com/heritage-paths
- NATIONAL FARMERS UNION SCOTLAND nfus.org.uk
- PATHS FOR ALL pathsforall.org.uk
- SCOTTISH LAND AND ESTATES scottishlandandestates.co.uk



Founded in 1845, ScotWays is the independent charity which upholds and promotes public access rights in Scotland. We are widely recognised as experts in the law and practice of access, advise on access problems, provide information and training, and maintain a vast database about routes in Scotland. You can see our recognisable green and white signs on routes across Scotland. We are home to the Heritage Paths Project, a unique archive of Scotland's old paths and roads.

WILL YOU JOIN US?

As a registered charity we rely on the support of our members and the public to continue our work providing guidance, installing signposts, repairing bridges, campaigning to improve outdoor access and fighting to protect it. The more members we have the louder our voice, the more people we can help and the bigger the difference we can make. scotways.com/become-a-member



This project is supported by NatureScot

DONATE

ScotWays is proudly independent, so flexible in what it can do, but must also raise enough money to survive. If you have found this leaflet useful please consider donating so that we can carry on upholding public access. scotways.com/donate

VOLUNTEER WITH US

We can't operate without our volunteers. They keep an eye on our signposts and repair them as necessary, walk and record the conditions of paths, take part in Local Access Forums, and help us to maintain and improve our extensive data archives.

If you have some spare time and you'd like to help us, get in touch. scotways.com/become-a-volunteer

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Registered Company:
SC024243
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Revised 11/2024
Design: Connect Communications
Photography: Richard Barron



Public Access in Scotland

Brief guide

– Know Your Rights

Where you can go What you can do



SCOTTISH OUTDOOR ACCESS CODE
outdooraccess-scotland.scot



20 years of public access to Scotland's great outdoors



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 which 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)

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 or 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.

WHERE CAN'T I 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 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 should not stray from the right of way unless there is an obstruction, e.g. a flood or a fallen tree.

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.

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.



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, or putting up signs that unduly deter or restrict responsible access. Where necessary to facilitate land management activities, landowners can ask the public to use particular routes or to avoid specific areas, but such requests must be for the minimum area and duration required. If landowners wish to formally close an area or divert a path they must discuss this with their access authority.

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. ***Contact details for all access authorities are available on the Contacts page at www.outdooraccess-scotland.scot **** ScotWays can offer guidance, but has no statutory powers.