

Amendments made to the proposed Scottish Outdoor Access Code

The Proposed Scottish Outdoor Access Code was placed on the SNH website on 20 January. Since then, Ministers have made a number of amendments to ensure the Code conforms with the statutory, policy and operational requirements of government departments and agencies (these include comments from various parts of the Scottish Executive, including the Wildlife & Habitat Branch, Equality Unit and the Solicitors Unit, the Ministry of Defence, Health & Safety Executive, British Waterways, Scottish Water, Forestry Commission and Historic Scotland). Ministers also considered further comments from several external bodies, including the National Trust for Scotland, Ramblers' Association Scotland and the Cairngorms and Loch Lomond & Trossachs national park authorities. All amendments have been made in consultation with SNH.

This note summarises the main amendments made to the proposed Scottish Outdoor Access Code since late January.

Paragraph	Change made
1.7	A new bullet point has been added to explain that references to local authorities in the Code should be taken to include the national park authorities.
1.7	The Ministry of Defence has been included as a "public body".
2.2	The wording of the third bullet point has been clarified.
2.11	Military bases and other installations has been added as an example.
2.19	The word "some" has been added in front of golf courses to clarify that not all golf courses are suitable for sledging.
Summary to Part 3	Some minor editing changes made. Geological features have been added to 4 and reference is now made to "cultural heritage sites" rather than to "historic, archaeological or cultural places".
3.5	Reference is now made to other occupied buildings as well as to houses.
3.8	Final sentence has been amended to stress that access rights do not alter the nature of the liability owed by a land manager.
3.11	A new footnote has been added to describe the legal principle of <i>volenti non fit injuria</i> .
3.27	An extra bullet point has been added to cover military training and land with unexploded munitions.
3.36	The wording has been clarified to make it more understandable. In the second bullet point, the term "minimise damage" has been replaced with "avoid causing unnecessary damage" to make the basic message more consistent.
3.38	An extra sentence has been added to make people aware of the implications of leaving a closed gate open.
3.41	The guidance on taking access through farmyards has been restructured and now provides clearer advice on what to do.

3.43	The reference to the natural heritage (in the footnote) now includes a reference to Scotland's biodiversity.
3.45	Reference is now also made to eggs and to geological features. This is also done in the "key points to remember" box.
3.45	A new footnote has been added to explain what is meant by "agreed information" in the third bullet point.
3.49	Reference is now made to "cultural heritage sites" and a footnote has been added to describe what is meant by "cultural heritage".
3.51	Reference is now made to "scheduled monuments". The emphasis is now on leaving sites as you find them. Mention is also made of the need to not use metal detectors at protected sites.
3.60	Reference is now made to it being good practice for event organisers to liaise with relevant land managers. The second bullet point has been restructured to improve clarity.
Summary to Part 4	Reference to rights of way has been made in the first bullet point under 4.
4.9	The reference to not locking gates without reasonable cause has been extended to all paths (rather than just well-used paths) and the need to provide an appropriate alternative for non-motorised access when a gate is locked on a well-used path. The range of examples of what might be reasonable cause to lock a gate has been widened in the footnote.
4.13	Reference is now made to the red flag procedures operated by the Ministry of Defence.
4.16	The last two sentences of this paragraph have been rewritten to provide clearer guidance for land managers that the action taken needs to be appropriate for the level of risk involved, which depends on the nature of the work, the site and the levels of recreational use expected.
4.25	Reference to rights of way is now made in the first bullet point.
Part 5	The entry on historic sites has been changed to cultural heritage sites.
Part 5 (canoeing, etc)	People are now advised to avoid going close to water intakes, abstraction points and spillways.
Part 5 (car parking)	More emphasis is now placed on not causing damage or creating an obstruction when parking a vehicle.
Part 5 (farmyards)	This has been revised to match the revised wording of paragraph 3.41.
Part 5 (fields of grass, etc)	The wording for land managers has been modified to refer to any margin. This wording is also used for fields of growing crops.
Part 5 (cultural heritage sites)	This has been revised to reflect the changes made to paragraphs 3.49 to 3.51.

Part 5 (margins of fields of growing crops)	This has been revised to point out that some farmers receive payments for managing wildlife along field margins.
Part 5 (military lands)	This is a new entry to explain the management of access by the Ministry of Defence.
Part 5 (sports pitches)	This now refers to the application of fertilisers and pesticides as a ground maintenance operation.
Part 5 (swimming)	This now mentions abstraction points in the first bullet point.
Part 5 (wild camping)	Reference is now made to 2 or 3 nights (rather than 1 or 2). The wording has been revised to clarify that you should not camp in enclosed fields of crops or farm animals (rather than asking people to camp in unenclosed land, which was open to some misinterpretation).
6.5, 6.6, 6.8, 6.9 and 6.10	Reference is now also made to the national park authorities.
6.10	The wording of the fourth bullet point has been revised to make the reference to the use of management agreements more accurate.
Annex 1	The wording for damage to plants has been revised to more accurately match the legislation and regulations (wording proposed by the Executive).
Annex 1	The wording for driving a vehicle off road has been revised to match the wording in the Road Traffic Act.
Annex 1	A new entry has been added to cover the use of metal detectors in a protected place.
Annex 1	A new entry has been added to cover an offence associated with lighting fires under the Civic Government (Scotland) Act.