

A Draft Scottish Outdoor Access Code

Public access to the outdoors: your rights and responsibilities

Access to the outdoors: a national asset to enjoy and look after

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Key principles

The legislation establishes access rights over land and water for non-motorised recreation and passage, provided that these rights are exercised responsibly. Equally, land managers must not interfere unreasonably with the access rights and how they are exercised. The *Scottish Outdoor Access Code* provides the reference point for responsible behaviour by the public and by land managers under the new legislation. It also provides the starting point for the much shorter promotional codes which are needed for general public use and for specific interest groups. The Code is based on the following key principles:

- ❑ The exercise of the access rights must be integrated with farming, forestry, field sports, conservation and other types of recreation. The rights cannot be exercised in all places and at all times.
- ❑ The responsibilities of the public should be founded on consideration, awareness and responsibility towards the interests of other people, particularly land managers, and the environment.
- ❑ Many people live in the countryside and their reasonable needs for privacy and peace must be respected.
- ❑ In exercising the access rights, people must take responsibility for their actions.
- ❑ The vast majority of people wish to behave responsibly in the countryside and already do so.
- ❑ The responsibilities of land managers should be founded on consideration, awareness and responsibility towards the access rights and the needs of those exercising them.
- ❑ Land managers must permit people to exercise the access rights but can limit how people exercise the rights whilst land management operations are underway.
- ❑ The need for land managers to observe good management practice, to maintain the viability of their businesses and to ensure people's safety must be respected.
- ❑ Public bodies should respect, safeguard and promote the rights and responsibilities in their policies, plans and actions, and provide the assistance and information that the public and land managers need.

1. Introduction

1.1 The *Land Reform (Scotland) Bill* (the legislation) requires that the access rights are exercised responsibly and that land managers respect these rights and the needs of those exercising them. Explaining what is meant by responsible behaviour is the job of the *Scottish Outdoor Access Code* (the Code). The Code, therefore, provides the crucial link between the legislation and how the access rights should operate in practice. The Code will be supported by shorter promotional codes and by a programme of promotion, information and education.

a. The purpose of the Scottish Outdoor Access Code

1.2 Scotland's outdoors, which extends from the open spaces in our towns to the remote and wild areas of land and water in the Highlands, provides great opportunities for open-air recreation. The access rights enable people to enjoy the outdoors secure in the knowledge that they can be on land or water provided they act responsibly.

1.3 The outdoors is also a working environment which is used for farming, forestry, field sports, water management, conservation and for other types of recreation and economic activity. The legislation states that people exercising the access rights must respect these other interests and land managers must respect the needs of those exercising these rights. Given the diversity of Scotland's countryside and the range of open-air recreation activities, it is not possible for legislation to cover every type of situation that might arise. The Code, therefore, provides this greater detail and interprets the rights and responsibilities for different types of countryside and for different activities.

1.4 The objectives of the Code are to:

- support the legislation by explaining what is responsible behaviour by the public and land managers;
- provide a detailed statement of what is expected, from all interests, in making the access rights work on the ground;
- explain how the rights are expected to operate in the most common situations; and
- provide the starting point for shorter promotional codes and for promoting responsible behaviour by all.

b. The status of the Code

1.5 The Code is an important document for two main reasons. First, the legislation makes clear that, in determining whether or not the access rights are being exercised responsibly, regard must be given to whether or not a person is contravening the rules set out in the Code. Likewise, land managers are under a

similar requirement to follow the rules set out in the Code. Second, the Code is also important because it requires the approval of Ministers and the Scottish Parliament.

1.6 The Code divides the responsibilities of the public and land managers into two categories. The first are **obligations** – referred to as rules in the legislation - which you must follow if you are to exercise the rights responsibly or, if you are a land manager, if the land is to be managed responsibly in relation to the access rights. These obligations are highlighted in the Code as ***bold, italic text***. The second are **suggestions** – good practice – which, if followed, can help to reduce impacts on the interests of other people and on the environment. Good practice can include planning your visit to the countryside in ways that minimise impacts on seasonal activities, such as deer stalking or lambing, or, in the case of land managers, fostering a welcoming approach to visitors.

c. Content of the Code

1.7 The Code describes the access rights, including the limitations placed on them by the legislation. It then sets down the responsibilities of the public and of land managers, and provides a practical guide to interpreting the rights and responsibilities for the most common situations. Finally, it provides information on where to get help, including how to deal with irresponsible behaviour, and information.

1.8 The Code makes widespread use of three general terms.

- **Land.** This term includes all types of land and inland water, including land and inland water on which the access rights can be exercised. The legislation defines it as including any inland, non-tidal loch or non-tidal river, lake or reservoir, whether natural or artificial and whether navigable or not, and includes the bed and the shores or banks. The term also includes canals and the foreshore, and bridges and other structures built on or over land.
- **Land manager.** This term includes owners and occupiers of land, including public and voluntary bodies, and those acting on their behalf. Landowners, farmers, crofters, tenants, foresters, fishery owners, and managers of recreational, historic and wildlife sites are all land managers.
- **Public body.** This term includes all Government Departments, local authorities and public agencies (such as Scottish Natural Heritage, British Waterways, Forestry Commission, VisitScotland, sportscotland, national park authorities, water authorities, local enterprise companies and the area tourist boards).

The public rights of responsible access at a glance

1. You can exercise the access rights, provided you do so responsibly:
 - over most land and inland water in Scotland
 - as an individual, either on your own or collectively in a non-commercial group, club outing or event
 - at any time
 - for recreational purposes or for crossing over land or inland water.
2. Recreation includes:
 - pastimes, such as bird watching, sightseeing, photography and painting
 - family and social activities, such as short walks, picnics, sledging and paddling
 - active pursuits, such as walking, cycling, horse riding, running, climbing, mountaineering, canoeing, rowing, windsurfing, sailing, air sports and wild camping.
3. You cannot exercise the access rights:
 - in houses and gardens
 - in buildings or the curtilages of buildings
 - on land on which crops are growing (but you can use the margins of fields with crops)
 - on land next to a school and used by the school
 - on sports or playing fields
 - on formal recreation areas whilst these are in use (except where exercise of the access rights would not interfere with such use; on golf courses you can exercise the rights to get from one place to another provided you don't interfere with any games of golf)
 - in places like airfields, railways, telecommunication sites or Ministry of Defence land
 - at visitor attractions where a charge is levied
 - on land where building, civil engineering or demolition works are being undertaken, and in working quarries.
4. The countryside is a working environment in which a wide range of potentially hazardous land management operations occur, such as crop spraying and tree felling. You must not hinder such operations.
5. The access rights do not allow you to do anything that is forbidden by the law, such as:
 - the worrying of livestock by dogs
 - dropping litter
 - lighting fires without permission
 - poaching
 - disturbing wild birds, animals and plants
 - polluting water.
6. The access rights do not extend to angling or to any form of motorised recreation.
7. The legislation excludes some conduct from the access rights, including:
 - conducting a commercial or profit-making activity
 - damaging the land or anything on or in it
 - taking anything from the land
 - being responsible for a dog which is not under proper control.
8. Public rights of way will continue to exist. The access rights apply over rights of way, except where these routes pass over land on which the access rights cannot be exercised (see list at 3 above).

2. The public rights of responsible access

2.1 The legislation confers and regulates public rights of non-motorised access to land (land includes inland water), exercised responsibly, for recreational and other purposes. This part of the Code describes these rights and the main limitations placed on them.

a. The access rights

2.2 You can exercise the rights, provided you do so responsibly:

- ❑ over most land in Scotland;
- ❑ as an individual, on your own or collectively in a non-commercial group, club outing or event;
- ❑ at any time;
- ❑ for recreational purposes or for crossing over land.

2.3 The rights allow you to go onto land, to pass over it and to remain on it for recreational purposes or for getting from one place to another. The right does not allow you to stay on land indefinitely. You can exercise the rights on, above or below the land's surface.

2.4 The legislation does not define "recreational purposes". The Code uses the term open-air recreation. This is taken to be any lawful recreational activity that depends on the natural or cultural qualities of the outdoors for its enjoyment and which is pursued in a responsible and peaceable manner. Open-air recreation includes:

- ❑ **pastimes**, such as watching wildlife, sightseeing, painting, photography and enjoying historic features;
- ❑ **family and social activities**, such as short walks, picnics, playing on a beach, sledging and paddling; and
- ❑ **active pursuits**, such as walking, cycling, horse riding, rock climbing, hill-walking, running, ski touring and mountaineering, caving, canoeing, swimming, rowing, windsurfing, sailing, diving, air sports and wild camping.

2.5 Crossing over land is a journey, for a lawful purpose, of any length between two places. Passage can be exercised by means such as walking, running, cycling, horse riding, canoeing and ski touring. Staying overnight is often an important part of the recreational experience or necessary if journeying over longer distances. For these reasons, recreational purposes includes camping overnight but you must follow some additional rules whilst doing so, such as camping only on unenclosed land well away from buildings (see section 5).

b. Places where you cannot exercise the access rights

2.6 The access rights are not unlimited: you cannot exercise them in all places and at all times. The main limitations on where you can exercise the rights are explained below.

2.7 You cannot exercise the access rights on land immediately surrounding a house such as a garden (see paragraphs 3.6 and 3.7). Nor can you exercise the access rights in any other building or its curtilage, or on land on which there is a caravan, tent or other place affording someone privacy or shelter. This restriction provides a basic safeguard for people's privacy and safety. Examples of buildings and their curtilages include:

- ❑ farm buildings and yards
- ❑ factories and other business premises, including warehouses, storage areas, pipelines and processing plants
- ❑ construction and landfill sites
- ❑ horticultural nurseries
- ❑ schools, play grounds and contiguous playing fields
- ❑ sports centres, clubhouses and associated facilities (including tennis courts, bowling greens, synthetic sports pitches and private swimming pools)
- ❑ caravan and chalet parks
- ❑ dams, spillways, weirs, intakes, tunnels, canal locks and marinas
- ❑ fish farms and hatcheries.

2.8 The extent of a curtilage will depend on the size, setting and use of the building. In most cases, the curtilage of a building will be the land adjoining the building and forming one enclosure with it; this enclosure being surrounded by other buildings or a wall, hedge or fence. The Code sets out detailed rules to ensure that people's privacy is respected (see paragraph 3.8) and to help safeguard people's safety (see paragraph 3.13 – 3.15).

2.9 You cannot exercise the access rights on the following types of land.

- ❑ **Land on which crops are growing.** Crops include cereals (such as wheat and barley), vegetables (such as potatoes, turnips and cabbages) and fruits (such as strawberries and raspberries). Grass grown for hay or silage is also classed as a crop, though grassland generally is not. However, you can exercise the rights around field margins (see paragraph 3.22 and section 5). You cannot exercise the rights in young forestry plantations where the trees

are at such an early stage of growth that they might be easily damaged.

- **Sports or playing fields while they are in use.**
- **On land developed or set out for a recreational purpose while it is being used for that purpose.** The legislation states, however, that you can exercise your access rights on such land if your use does not interfere with the recreational use being made of that land. On golf courses, you can exercise the access rights to get from one place to another but not to take part in recreational activities, such as picnicking or playing ball games. In doing so, you must not interfere with any games of golf.
- **Land contiguous to schools.** To reduce the risks to children's safety, you cannot exercise the rights on land contiguous to any school, such as playing fields.
- **Land where public access is prohibited by the law,** such as military areas.
- **Visitor attractions where there is a charge for entry.** You cannot exercise the access rights in places to which the public are admitted only on payment – the legislation sets down specific rules to define such places. These places will normally be managed visitor attractions, such as some commercial attractions or the facilities provided at some wildlife sites or some historic or cultural sites owned by bodies such as the National Trust for Scotland and Historic Scotland.
- **Land on which building, civil engineering or demolition work is being carried out.** Nor can you exercise the rights on land on which works are being carried out by a statutory undertaker, such as a water authority, or in working quarries. These limitations are for your safety.

2.10 The countryside is a working environment in which a wide range of land management operations, such as crop spraying and tree felling, are carried out. Some of these can be hazardous if you do not take adequate care. You must not hinder such operations (see paragraph 3.16).

c. Conduct excluded from the access rights

2.11 The access rights do not extend to angling. Nor do they extend to someone being on land with a gun (this requires the permission of the land manager). The access rights do not extend to any form of motorised recreation, such as motor biking and scrambling, off-road driving, jet skiing or the use of any powered boat, except for motorised wheelchairs. Nor do the rights entitle you to drive over land in order to launch a canoe or other vessel. If you wish to take part in motorised recreation on someone's land then you must seek their permission.

2.12 The access rights do not extend to any anti-social or criminal activities prohibited by the law (see Annex 1), such as:

- ❑ the worrying of livestock by dogs;
- ❑ dropping litter, including fly tipping;
- ❑ polluting water that is provided for direct or indirect human consumption;
- ❑ lighting fires without permission;
- ❑ interfering with or misusing anything provided for people's safety, health or welfare;
- ❑ damaging or disturbing wild birds, animals and plants;
- ❑ poaching or entering land for that purpose;
- ❑ vandalism.

2.13 The access rights do not extend to conducting a commercial or profit-making business or activity. This provides a safeguard for the business interests of land managers though it is recognised that commercial activities make a significant contribution to the rural economy. In practice, it will sometimes be difficult to distinguish commercial from other forms of access and land managers are encouraged to continue to allow a wide range of commercial activities where these are undertaken responsibly and do not interfere with their own interests (see paragraph 3.46).

2.14 The legislation also excludes some other types of conduct from the access rights to help safeguard the interests of other people, including:

- ❑ being responsible for a dog or other animal which is not under proper control;
- ❑ damaging the land or anything on or in it;
- ❑ wilfully interfering with any drains, ditches, fences, gates or other means of land management;
- ❑ bathing in non-tidal water in contravention of a prohibitory notice approved by the local authority;
- ❑ swimming, diving, sailing or wind surfing in canals.

2.15 The legislation also excludes from the access rights the taking away of anything in or on the land or the use of a metal detector. In practice, you may still do these activities with the land manager's consent. Following traditional practice, the picking of wild fruits, such as brambles or elderberries, and mushrooms is not irresponsible if the quantities are small and for your own consumption.

d. Public rights of way

2.16 Public rights of way will continue to exist. You can exercise the access rights over public rights of way where these routes pass over land on which the access rights can be exercised. Where a public right of way passes over land excluded from the access rights, such as the curtilages of buildings or land on which crops are growing, you can still use the route as a right of way.

The key responsibilities of the public at a glance

You must exercise the access rights responsibly by not interfering unreasonably with the rights of other people and by acting in ways which, as well as observing the law, are reasonable and take proper account of the interests of others and of the environment. Your key responsibilities are as follows.

1. Respect people's privacy and peace by

- keeping a sensible distance from houses
- making sure that when you pass close to a house or garden on a path that you do not pry on the those living there
- consulting those living in a house if you are in a group that wishes to stop and take part in a recreation activity next to the house that might cause concern or alarm to those people
- showing extra care and restraint outwith daylight hours by keeping to paths where they exist or, where there are no paths, by keeping well away from houses, and not doing anything that might cause alarm.

2. Help land managers and others to work safely and effectively by

- not hindering a land management operation - keep a safe distance and follow any advice from the land manager
- respecting any reasonable and practicable limitations recommended by a land manager
- not touching, handling or feeding farm animals
- leaving all gates as you find them
- not blocking entrances to fields or buildings.

3. Care for your environment by

- leaving the environment as you find it
- not disturbing wild animals and plants
- not causing any pollution
- taking all your litter home with you
- keeping all water clean
- not damaging or disturbing historic, archaeological or cultural places.

4. Keep your dog under proper control by

- not taking it into fields where there are calves or lambs, or into fields of vegetables, or on to golf courses or sports pitches
- keeping it on a short lead in fields where there are sheep, cattle or other farm animals
- keeping it on a lead in areas, such as moorland, forests, loch shores and the seashore, where ground nesting birds are breeding and rearing their young.

5. Always act with consideration, awareness and responsibility by

- showing courtesy and consideration to all
- taking personal responsibility for your own actions
- respecting and acting on the needs of other users
- modifying your behaviour where this is necessary to minimise impacts
- putting something back into the outdoors, such as purchasing goods locally.

6. Take special care if you are organising a group or event by

- consulting land managers, where this is reasonable and practicable, if you wish to make intensive or longer-term use of a place or if your visit raises particular safety concerns
- obtaining the permission of land managers if your event requires facilities or services, involves a concentration of people or will hinder management operations
- taking adequate measures to ensure that impacts on the interests of other people and on the outdoors are minimised.

3. The responsibilities of the public

3.1 You must exercise the access rights responsibly. This section of the Code describes two types of responsibility: specific obligations, which you must follow if you are to exercise the rights responsibly; and, good practice, which you should follow to help reduce impacts on the interests of others and on the environment.

a. What is meant by responsible behaviour?

3.2 You share the countryside with other people who earn their living from it or who live there or who enjoy it in other ways, and also with Scotland's diverse wildlife. By being responsible, your exercise of the access rights need not interfere with the interests of others or with the environment, and help to ensure that the access rights remain a national asset of which Scotland can be proud. The legislation states that you are exercising the access rights responsibly if you:

- ❑ ***do not interfere unreasonably with the rights of other people; and***
- ❑ ***do so in a way which is lawful and reasonable, and which takes proper account of the interests of others and of the land itself.***

3.3 It is important to avoid causing unreasonable interference because it can result in:

- ❑ damage, leading to actual injury or loss, such as the worrying of livestock, polluting water, breaking a fence or trampling crops; or
- ❑ disturbance, causing an interruption or inconvenience, such as blocking a gate, walking through a golf game, interrupting a stalk, or distressing or alarming wildlife or livestock.

The consequences of damage and disturbance can range from annoyance to the loss of income and the time needed to remedy things, or to adverse impacts on our environment.

3.4 Behaving responsibly involves acting with consideration and awareness, taking responsibility for your own actions, and making informed decisions about what it is reasonable to do in particular situations. The likelihood of causing unreasonable interference, and the scale of any damage or disturbance that might result, depends on many things, including:

- ❑ the type of countryside you are visiting: some places, like riverbanks, high mountain tops, sand dunes and marshes, are less able than other places to bear the impact of regular use;
- ❑ the time of year: many land management activities are seasonal, such as lambing, deer stalking and fishing, and wildlife can often be more easily

disturbed during the winter or the breeding seasons;

- ❑ the type of activity you are undertaking: cycling and horse riding, for example, can have more severe impacts on fragile ground than walking;
- ❑ the level of use: while you may visit a place only occasionally, it might be very popular and the land manager may have to cope with the cumulative effects of many visitors.

b. Your responsibilities

3.5 This section of the Code sets out your responsibilities which, taken together, will help you to exercise the access rights responsibly without causing unreasonable interference. They apply regardless of your activity and the type of countryside you are in.

1. Respect people's privacy and peace

3.6 Everyone is entitled to reasonable privacy and peace in their own home and garden. For this reason, the legislation states that you cannot exercise the access rights on sufficient adjacent or associated land next to a house to enable those living there to have reasonable measures of privacy and undisturbed enjoyment of the whole.

3.7 The extent of this land will depend on the location and characteristics of a house. For most houses, it should be reasonably obvious on the ground: a garden adjoining the house and surrounded by a hedge or fence. In some cases, such as houses in the country with amenity land around them, the extent of such land may be less obvious. In these cases, you can exercise the rights in surrounding woodlands and farmland, including grazing land, up to the point where the intensity of management or proximity to the house means that the grounds have become a garden.

3.8 To respect people's privacy and peace, ***you must:***

- ❑ ***as a general rule, keep a sensible distance from houses;***
- ❑ ***make sure that when you pass close by a house or garden on a path or track that you do not pry on those living there;***
- ❑ ***consult those living there, and take heed of any advice given, if you are in a group that wishes to stop next to a house or garden for any length of time and take part in a recreational activity which might cause concern or alarm to those living there.***

3.9 Access in the hours of darkness is a part of some open-air recreation

activities, such as wild camping or observing wildlife, or is necessary for getting from one place to another, or for leaving early or returning late during short winter days. However, exercising the access rights at such times may cause concerns about security, privacy and peace of mind. ***If you do exercise the access rights outwith daylight hours, you must show extra care and restraint by:***

- ❑ ***keeping to paths and tracks where they exist;***
- ❑ ***where there are no paths, keeping well away from buildings;***
- ❑ ***not lingering or doing anything that might cause alarm.***

3.10 Some public rights of way run through gardens or right next to houses. You cannot exercise the access rights along such routes where they do so but you can still use the right of way.

2. Help land managers and others to work safely and effectively

3.11 The outdoors is a working environment that provides a livelihood for many people. Damage and disturbance can cost people and their businesses both time and money. As many rural businesses are economically marginal, and given the hazardous nature of some land management operations, it is essential that you help land managers and others to work safely and effectively.

3.12 As land managers have legal duties under health and safety legislation to their staff and to members of the public who might be affected by their work, they need to be as certain as they can be that people are not going to be put at risk during a land management operation. If such work is hindered it can cost time and money, and be potentially hazardous. Your responsibilities are described under four headings below.

- Access through farmyards

3.13 The access rights do not extend to farmyards. This limitation provides a basic safeguard for your safety as farmyards are often busy places, with machinery in regular use and livestock being moved. On the other hand, many paths and tracks pass through farmyards and people are generally encouraged to use such routes as this can help to minimise conflict with land management. Land managers, therefore, should continue to allow the public to go through farmyards where this would not raise significant concerns about safety.

3.14 Where a public right of way goes through a farmyard, you can still use that route. In the absence of a public right of way, the land manager might be content for you to follow a path or track where it goes through a farmyard, particularly

where the path or track is part of an established route. In passing through a farmyard on this basis, ***you must proceed carefully, watching out for moving vehicles and not interfering with machinery and livestock.***

3.15 In the absence of a public right of way or a route which the land manager is content for the public to use, ***you must follow any guidance from the land managers or go around the farmyard and buildings.***

- Access over land on which a land management operation is underway

3.16 Land managers must be able to conduct a wide range of land management operations as safely, effectively and efficiently as possible. ***You must not hinder these land management operations.*** These operations include:

- ❑ ploughing and crop sowing
- ❑ crop spraying and the application of fertilisers and lime
- ❑ crop harvesting
- ❑ movement of animals from field to field or to farm buildings
- ❑ tree planting, felling and extraction
- ❑ storage of materials
- ❑ erection of fences, walls, hedges and gates, and habitat restoration
- ❑ pest control
- ❑ muirburn.

3.17 Many land management operations pose only very localised and obvious dangers, or last only a short time, such as ploughing a field, moving animals or erecting a fence. ***If you encounter such an operation whilst it is underway you must proceed carefully, by keeping a safe distance, and follow any advice from the land manager.***

3.18 Some operations raise particular safety concerns, such as where the hazard remains for several days after the operation (such as with crop spraying), or may last some time (such as with tree felling over a large area). Where this is the case, land managers can limit how you exercise the access rights over the land on which the operation is taking place. They can do this by asking you to avoid using a particular route or area for the duration of the relevant operation, or by asking you to avoid doing a particular activity (for example, it might be safe for you to walk through or around a field but not to picnic). ***You must respect any limitations that are recommended by a land manager whilst a land management operation is underway or still presents a significant risk to***

people's safety.

3.19 Such limitations must be reasonable and practicable. They must be for the minimum area and duration for the operation to be conducted safely (see section 4). You may, at obvious access points, expect to be provided with information on the type of hazard, its duration and the area affected on land where public access is frequent or where the operation is particularly hazardous. In more remote areas or for less hazardous operations, you should not necessarily expect to receive such advice and so you should look out for any operations taking place and proceed carefully.

- Safeguarding public and animal health

3.20 Some diseases that affect humans or animals can be spread by people or dogs, or contracted by poor hygiene (*E.coli* being one such disease). ***To minimise the risks, you must not touch, handle or feed farm animals.***

3.21 Keeping well clear of some management operations, such as crop spraying, the application of fertilisers, slurry or lime and crop harvesting, can also help to minimise health risks. Personal hygiene is particularly important if you are picnicking or camping in the outdoors, especially in areas where farm animals have been grazing because their excrement can carry diseases, such as *E.coli*, which can pass to humans. In these situations, children should be adequately supervised and special care taken to boil water supplies.

- Passing through fields

3.22 Your ability to exercise the access rights through fields will depend on the circumstances at the time, which will differ from field to field. You should proceed as follows:

- use paths and tracks where they exist;
- for a field of growing crops, you should follow a path or track if one exists or, if there is no path or track, ***you must go around the field margin or through a neighbouring field;***
- for a field where there are lambs or calves, you should go through a neighbouring field (***you must do this if you have a dog with you***) or, if this is not possible, you should proceed through the field but keep a sensible distance from the animals.

3.23 Finally, ***you must leave all gates as you find them and not block entrances to fields and buildings.*** You should use gates and other access points where these have been provided.

3. Care for your environment

3.24 Scotland's natural heritage is valued by many people and is often the main reason why we visit the outdoors: be it to enjoy its physical challenges or to appreciate attractive countryside or to watch wildlife. Plants and animals, however, can be damaged or unreasonably disturbed if we do not show care in exercising the access rights. **To help care for your environment, you must:**

- ❑ **leave the environment as you find it;**
- ❑ **avoid causing distress or alarm to wildlife, or damaging plants;**
- ❑ **avoid causing any pollution.**

3.25 Some places, such as riverbanks and loch shores, marshes and bogs, high mountain tops and steep slopes, and coastal dunes, can be more easily damaged, particularly when recreational use is heavy. Wildlife can be particularly vulnerable to disturbance during the breeding season and during the winter when food is scarce and the weather is harsher. In such places and at such times, you should:

- ❑ stay well back from flocks or herds of animals or take a different line to avoid disturbing them;
- ❑ follow paths where they exist to avoid causing damage to vegetation;
- ❑ follow local advice on the best routes to take, particularly at managed wildlife sites and where habitats such as riverbanks or dunes are being restored.

3.26 You must avoid causing pollution. Broken glass, tins and plastic bags are dangerous to people and animals and are unsightly. Clean water supplies are essential for both people and wildlife. **You must take your litter home with you and keep all water clean.**

3.27 If it is necessary to urinate, you should do so at least 30m from water. If you need to defecate, you should do so as far away as possible from buildings and water and from any farm animals. You should bury faeces in a shallow hole and replace the turf.

3.28 Scotland's cultural heritage contributes greatly to our enjoyment of the outdoors. Some sites are managed attractions but many are not and may not even be at all obvious on the ground. **You must take special care to avoid damaging or disturbing places of historic, archaeological or cultural interest. You can do this by not:**

- ❑ ***damaging or disturbing any walls, structures or other features;***
- ❑ ***digging or disturbing the ground surface;***
- ❑ ***interfering with an archaeological excavation;***
- ❑ ***removing anything from a site, including loose stones.***

4. Keep your dog under proper control

3.29 Dogs not under proper control can cause serious problems, including the worrying of livestock, disturbance to wildlife and alarm to other people. In exercising the access rights you must keep your dog(s) under proper control. To this end, ***you must keep your dog:***

- ❑ ***out of fields where there are calves, sheep close to lambing time or lambs;***
- ❑ ***out of fields where vegetables for human consumption are growing;***
- ❑ ***off sports or playing fields;***
- ❑ ***on a short lead (no longer than 2 metres) in fields where there are sheep, cattle or other animals;***
- ❑ ***on a lead in areas such as moorland, riverbanks and loch shores, forests and the seashore, where ground nesting birds are breeding and rearing their young (normally between April and July);***
- ❑ ***under close control at all other times and on a lead where there are other people around.***

3.30 As dog dirt creates health risks and is unpleasant, you should dispose of it safely, particularly in places such as paths, parks and play areas, and near houses and water supplies.

5. Always act with consideration, awareness and responsibility

3.31 Ensuring that the rights and responsibilities work well and are accepted by all can be helped by you acting with consideration, awareness and responsibility. There are six main ways in which you can do this.

- By showing courtesy and consideration to all

3.32 Good manners are fundamental to fostering good relations between those exercising the rights and those who live and work in the countryside, and also between those taking part in different types of recreation.

- By not causing inconvenience to others

3.33 You should keep noise to a minimum and park your vehicle so as to avoid inconvenience to others. ***You must not block narrow country lanes and tracks*** as this can cause considerable inconvenience to other people.

- By taking personal responsibility for your own actions

3.34 We all have a duty of care to other people. You should remember that visiting the outdoors does carry a degree of risk: it is a working environment and there are natural hazards, such rivers, cliffs and steep and rocky ground. Some recreational activities can be inherently risky unless you take adequate precautions. The outdoors cannot and should not be made risk-free.

- By respecting the needs of other people enjoying the outdoors

3.35 Different types of recreation have differing needs: the needs of horse riders are different from those of walkers or cyclists. Also, other types of recreation may take place with the permission of the land manager, such as motorised recreation. It is important, therefore, to respect and act on the needs of other people who are enjoying the outdoors.

- By modifying your route or activity where this is necessary

3.36 To avoid causing unreasonable interference with the interests of others or the environment you should be willing to modify your route or activity at particular times of the year or when land management operations are in progress. For example, the *Hillphones* service provides up-to-date information on where deer stalking is taking place on a particular day for some of the popular hills.

- By putting something back into the outdoors

3.37 Doing this can help enhance the relationship between visitors, land managers and local communities, and demonstrate a commitment by you towards the care of the outdoors that you visit and enjoy. Possible ways of helping include:

- ❑ purchasing goods and services locally in the area you are visiting;
- ❑ learning more about the countryside;
- ❑ supporting organisations which seek to conserve and enhance Scotland's

environment;

- ❑ supporting projects to restore habitats, repair eroded paths, rebuild fences, walls and hedges, and other similar work.

6. Take special care if you are organising a group or event

3.38 You can exercise the access rights as an individual or in the company of others, such as in a family group or with friends, in a club outing, in an educational or training group, or by taking part in an organised event. For larger outings or events there should normally be an individual or a small group of people who takes responsibility for its organisation. This section of the Code sets down the responsibilities of these organisers. These responsibilities do not override those of people taking part in groups or events.

3.39 There can be few hard or fast rules relating to groups or events, as each differs in size, location and timing. Generally, as a starting point, if you are organising a group or event you should:

- ❑ accept that the more formal their activity or the larger their group or event, the greater is the expectation that they consult with land managers;
- ❑ take into account, in planning the visit, the potential effects of their group or event on the environment, land management and other users;
- ❑ consider any advice carefully and be willing to adjust the location or timing of the intended visit to minimise any likely problems;
- ❑ ensure that members of their group or event are aware of the Code and its content.

- Family groups or with friends

3.40 There are no special obligations beyond those for individuals. As a general rule, the larger your group the more you need to think about the impacts you and your group might cause (for example, parking cars, disturbance to people's privacy, or disturbance to farm animals or wildlife).

- Club outings

3.41 These have a social purpose, bringing together people with a common recreational interest. The larger the group, the greater is the obligation on the organiser to take care over the impacts and the need to make contact with land managers to ensure that problems do not arise. **Organisers must pay**

particular regard to the general guidance for groups (paragraph 3.39).

- Education groups and youth training

3.42 These outings, such as for the Duke of Edinburgh Award scheme and school visits, usually require a degree of organisation, are often planned in advance, and usually involve younger people. ***Organisers must, as far as is reasonable and practicable, consult land managers and take heed of their advice when:***

- ❑ ***they wish to make intensive or longer-term use of a particular place;***
- ❑ ***their visit is likely to raise particular safety concerns*** (such as a group of young children visiting or crossing through a farm).

- Events

3.43 These include gatherings for a special purpose, such as competition, charitable fund-raising or for community purposes. All events are organised to a greater or lesser degree, and their scale and timing can sometimes raise safety concerns, hinder land management operations or adversely affect the environment. ***Organisers must obtain permission from land managers if their event.***

- ❑ ***requires the provision of new or temporary facilities and services*** (such as car parking, fencing, signs, litter bins, marked courses or toilets);
- ❑ ***is likely to result in a concentration of participants or spectators at specific points or hinder land management operations or interfere with other people exercising the access rights.***

3.44 ***Organisers must ensure that adequate measures are taken to minimise impacts to the interests of other people or to the environment.*** Such measures could include:

- ❑ arranging for any damage caused to be remedied;
- ❑ ensuring that local roads and parking areas can cope with the traffic likely to be generated by the event, and minimising any likely delays or disturbance;
- ❑ ensuring that people's privacy is respected and liaising with local residents;
- ❑ ensuring that the safety of participants, spectators and other persons has been addressed;
- ❑ planning the route of the event and any spectating areas to avoid easily damaged places and consulting relevant bodies on impacts likely to arise;

- ensuring that water is not polluted and making suitable arrangements for disposing of litter and human waste.

- Education establishments and non-commercial activity centres

3.45 Running such centres normally requires a high degree of organisation. Activities organised by such centres are usually frequent and regular, and may also require the regular use of particular types of place, such as a particular river, loch or cliff, resulting in impacts falling on a few land managers. ***The managers of such centres must.***

- ***liaise regularly with land managers and consult them if their staff and customers make frequent or intensive use of particular places or routes;***
- ***respect the needs of other people exercising their access rights in places used by the centre.***

- Commercial activities

3.46 Commercial activities are excluded from the access rights. However, it is expected that activities undertaken by guides, instructors or commercial activity centres which would otherwise be covered by the rights, will continue to have the consent of land managers. ***Organisers must follow all of the responsibilities set out in paragraphs 3.39 to 3.45 above.***

The responsibilities of land managers at a glance

You must respect the new access rights in using and managing your land by not interfering unreasonably with people exercising the rights, and by acting in ways which, as well as observing the law, are reasonable and take proper account of the interests of those exercising the access rights. Your key responsibilities are as follows.

- 1. Avoid obstructing or discouraging public access by**
 - not deliberately or unreasonably preventing or deterring anyone from exercising the rights responsibly
 - following any formal, approved procedures relating to paths and tracks.

- 2. Act reasonably when limiting public access during land management operations by**
 - keeping the type, geographical extent and duration of any limitation to the minimum required for the land management operation
 - making sure that the type and scale of any limitation is appropriate for the type of operation and the level of risk involved
 - informing the public, where reasonable and practicable, about the extent and duration of the management operation
 - providing or suggesting alternative routes if the operation is expected to affect a core path or a popular recreation site
 - planning and conducting a management operation, in so far as is reasonable and practicable, in ways that minimise interference with people exercising the access rights.

- 3. Help people to enjoy the outdoors responsibly by**
 - adopting a welcoming approach towards public access and respecting the needs of people exercising the access rights
 - providing clear and constructive advice to the organisers of events
 - working in partnership with local authorities and other public bodies to facilitate and manage exercise of the access rights.

4. The responsibilities of land managers

4.1 This section of the Code describes the responsibilities of land managers. They apply to all owners and occupiers of land, and to other land managers, including public and voluntary bodies. The Code describes two types of responsibility: specific obligations, which you must follow; and, good practice, which will help make the access rights work better on the ground.

a. What is meant by responsible behaviour?

4.2 Open-air recreation is very important to many people and provides them with the opportunity to enjoy fresh air and physical challenge, and to appreciate the countryside. The key responsibilities of the public are to respect the privacy of those who live in the countryside, to ensure that land managers can work safely and effectively, and to care for the environment. But you, as a land manager, can also help make the access rights work on the ground without compromising good management practice, the viability of your business or people's safety.

4.3 The legislation states that ***you must use and manage your land responsibly in relation to the access rights by:***

- ***not causing unreasonable interference with anyone exercising the access rights; and***
- ***acting in ways which are lawful and reasonable, and which take proper account of the interests of people exercising or seeking to exercise the access rights.***

4.4 The key tests of responsibility are whether or not people who wish to exercise or who are exercising the access rights are prevented or discouraged from doing so, and whether or not any actions taken by you are unreasonable. It involves making informed decisions about what constitutes responsible behaviour in particular situations. In practice, a positive approach towards people exercising the rights on your land will help greatly and also help to encourage people to behave responsibly and to minimise disruption to your work.

b. Your responsibilities

4.5 This section of the Code sets out your responsibilities which, taken together, will help you to manage your property responsibly in relation to the access rights.

1. Avoid obstructing or hindering public access

4.6 The main requirement on you is that ***you must not hinder people from exercising their rights of responsible access, either by physically obstructing access or by otherwise discouraging or intimidating them.*** The

legislation gives local authorities a new duty to uphold the access rights and powers to remove prohibition signs, obstructions and dangerous impediments, and to recover costs from the land manager responsible for the sign, obstruction or impediment.

4.7 An obstruction or impediment is anything that prevents or hinders anyone from exercising the access rights responsibly. Using and managing land will inevitably lead to some situations where public access might need to be limited, such as when a potentially hazardous land management operation is underway (see paragraphs 4.10 to 4.14), or might become more difficult, such as through a change in land use. Thus, a key test is whether or not an obstruction or impediment is deliberate or unreasonable. Examples of what might be deliberate or unreasonable could include:

- ❑ maintaining a limitation on people's exercise of their access rights after a land management operation has ended;
- ❑ locking a gate without reasonable cause;
- ❑ dumping materials or leaving machinery across a path when this could readily be done elsewhere;
- ❑ badly storing slurry or other waste, or providing an animal feeding site, over or next to a core path or other recognised route, which leads to the route becoming unusable or being used only with difficulty;
- ❑ removing a path or an access point without providing a reasonable alternative;
- ❑ closing off a roadside parking area without consulting the local authority;
- ❑ a sign or notice worded in a way which intimidates or deters the public;
- ❑ leaving at large any animal known to be dangerous in a field or area where there is a core path, a public right of way or another route where public access is significant;
- ❑ erecting a fence, wall or other barrier across a path or other recreational route, or around a popular recreational area, without providing one or more access points.

4.8 Paths are particularly important to making the access rights work successfully on the ground. Most people prefer to use paths rather than go across fields or along roads and, by doing so, they reduce potential interference with land management operations. For this reason, the legislation introduces a wide range of new duties and powers for local authorities to create, protect and manage paths, and to remove obstructions (see section 6).

4.9 You must follow any formal approved procedures relating to paths that apply to land managers. (section to be added once legislation and regulations are finalised).

2. Act reasonably when limiting public access during land management operations

4.10 It is fundamental to the concept of mutual responsibility that lies at the heart of the legislation that you should be able to manage the exercise of access rights to ensure that people exercising these rights do not hinder your land management operations. By the same token, however, you are under an obligation to act reasonably by keeping such management to the minimum required to provide a reasonable safeguard for those operations. These operations might include:

- ❑ ploughing and crop sowing
- ❑ crop spraying and the application of fertilisers and lime
- ❑ crop harvesting
- ❑ movement of animals from field to field or to farm buildings
- ❑ tree planting, felling and extraction
- ❑ storage of materials
- ❑ erection of fences, walls, hedges and gates, and habitat restoration
- ❑ pest control
- ❑ muirburn.

4.11 The Code requires that the public do not hinder such operations (see paragraph 3.16) and it allows you to recommend reasonable and practicable limitations on public access whilst such operations are underway. Many land management operations pose only very localised and obvious dangers or last only a short time, such as ploughing a field, moving animals or erecting a fence. Formal limitations will normally not be necessary in these cases: people exercising the access rights must proceed carefully and keep a safe distance. You can advise them of how best to proceed and they must follow that advice.

4.12 Some operations, however, do raise particular safety concerns, such as where the hazard remains for several days after the operation (such as with crop

spraying) or may last some time (such as with tree felling). Where this is the case, you can recommend limitations on how people are expected to exercise the access rights over the land on which the operation is taking place by asking them to avoid:

- ❑ using a particular route or area for the duration of the relevant operation;
- ❑ doing particular activities for the duration of the relevant operation.

4.13 Whilst people exercising the access rights must follow any limitations that you recommend, ***you must ensure that these limitations are reasonable and practicable by keeping the type, geographical extent and duration of any limitation to the minimum required, and by making sure that the type and scale of any limitation is appropriate for the type of operation and the level of risk involved.*** You should, as far as is practicable:

- ❑ keep the boundaries of any limit to identifiable features on the ground (such as a dyke, fence or stream) or to a specified distance if no clear feature exists on the ground;
- ❑ inform the public, at any obvious access points (such as car parks and gates), about the extent and duration of an operation and utilise any standard wording that is available for this purpose;
- ❑ provide or suggest alternative routes, especially if the operation is likely to affect a core path or a popular recreation site;
- ❑ utilise any official guidance on signage to be used to recommend limitations on public access.

4.14 This does not mean that for every such operation you must inform the public or provide alternative routes. Generally, the higher the likely levels of public access or the more hazardous an operation is likely to be, the greater is the need to provide information or recommend limitations to the public. Where use is likely to be low or where the management operation is not very hazardous, such action becomes much less necessary. In many cases, there might be no need for formal action on your part.

4.15 In so far as is reasonable and practicable, you should plan and conduct management operations in ways that are likely to minimise interference with people exercising the access rights by:

- ❑ making use of any readily available information or guidance on how any effects of a land management operation can be minimised;
- ❑ making use of any general risk assessments developed for land management operations in relation to the access rights;

- ❑ thinking about where and when people are likely to be exercising the access rights; and
- ❑ following the advice in more detailed codes of practice produced by bodies like the Health & Safety Executive and the Scottish Landowners' Federation.

3. Help people to enjoy the outdoors responsibly

4.16 Damage and disturbance are most often caused by people being unaware of how their actions can affect land management operations and, as a result, your business. People usually respond positively if they feel welcome and this can help to minimise disruption to your work and help people to appreciate and understand your work.

4.17 Some land managers already provide paths and other facilities for the public on their own initiative and, in some cases, receive grants from public bodies to do so. With the new legislation, public bodies are expected to invest more in new facilities and in the better management of access. This work would be greatly assisted if you worked positively with local authorities and other public bodies.

4.18 In considering what might be possible on your land, the commercial viability of your business and people's safety must come first. Beyond this, you should consider how you might demonstrate a welcoming approach to visitors. Possible actions could include:

- ❑ helping local authorities to identify core paths and possible new routes across your land which would best help to integrate access and land management;
- ❑ working with local authorities to identify safe routes through or around farmyards;
- ❑ safeguarding paths when carrying out land management operations;
- ❑ keeping control of guard or working dogs, especially near to paths;
- ❑ making sure that people can easily use existing gates and other access points;
- ❑ leaving a field margin so that people can walk or ride without causing damage to growing crops;
- ❑ making provision for access when planning and undertaking a major land use change, such as planting new forests; and

- providing positive advice and information on signs, notices or leaflets.

4.19 If you are contacted by the organiser of a group or event, you should respond as quickly as possible and provide clear and constructive advice. If your consent is required, you are encouraged to give this unless your concerns are not addressed.

4.20 As for everyone involved in access, showing courtesy and consideration at a personal level is important. Good manners on all sides are fundamental to good relations between those enjoying the outdoors and those who live and work there. Respecting the needs of those exercising or seeking to exercise the rights is important.

5. Interpreting the rights and responsibilities: a practical guide

5.1 Based on the responsibilities set out in sections 3 and 4, this part of the Code provides a practical guide to help the public and land managers to make informed decisions about what best to do in particular situations. It is only a summary of the main points for the more common situations, or for where more interpretation might be helpful. It should also provide a starting point for shorter, promotional codes aimed at specific interest groups. The guide is arranged alphabetically.

	Responsible behaviour by the public	Responsible behaviour by land managers
PLACES		
Canals	The access rights extend to canoeing and rowing in canals but not to swimming, diving, sailing or wind surfing. For safety reasons, the rights do not extend to tunnels and locks. You should follow the Waterways Code and give way to motorised craft. Towpaths are normally narrow and not always suitable for some activities, such as cycling or horse riding, and may be dangerous where there are low bridges. Exercise care, respect the interests of other users and follow any byelaws.	Information should be provided on where people can best exercise the access rights along canals and towpaths.
Dams and reservoirs	As access across dams is often helpful to walkers and cyclists, you can go across dams where use is not discouraged. The highest safety risks arise from swimming, canoeing or boating too close to spillways and water intakes. You must follow any local byelaws. You must not pollute the water as it may be used for public water supply.	Public bodies should take steps to promote the use of reservoirs where access would not conflict with water quality. Access across dams should not be restricted unless safety issues arise.
Farmyards	The access rights do not extend to farmyards. Where a public right of way exists through a farmyard you can still use it. Where there is an established route through a farmyard you should expect to be able to continue to use it, though you must proceed carefully and not interfere with machinery or livestock. In the absence of any such route, you should go around the farmyard. If a route is provided around the farmyard you must follow this.	People are encouraged to use paths and tracks through farmland. As many such routes go through farmyards you should permit access where this would not cause any major problems. You should identify the best route through or around the farmyard.
Field margins	You can exercise the access rights around field margins. As field margins can be a refuge for wildlife you should proceed carefully, particularly if you are cycling or riding.	Wherever practicable, you should leave a field margin to help people exercise the rights and to support wildlife.
Fields of grass grown for hay or silage	The rights cannot be exercised over land on which grass is being grown for hay or silage. If a path exists across the field, you should follow it. If no path exists, you must go around the edge of the field or through a neighbouring field.	You should consider signposting a suitable route through or around the field.
Fields of growing	The rights do not extend to land on which crops are growing. If a path exists across the field, you	Wherever practicable, you should leave a field margin to

	Responsible behaviour by the public	Responsible behaviour by land managers
crops	should follow it. If no path exists, you must go around the edge of the field or through a neighbouring field. You must not take dogs into fields where vegetables are growing.	help people exercise the rights and to support wildlife.
Fields with calves or lambs present	You must not disturb sheep when it is close to lambing time, or young animals such as calves and lambs. Wherever practicable, you should go through a neighbouring field. If this is not possible, you should keep as far from the animals as possible. You must not take dogs into fields where there are calves or lambs present.	Where there is a core path, you should advise people to keep to the path or signpost the nearest alternative route that is available.
Fields with livestock	As livestock can attack people, particularly those with a dog, you need to take special care to avoid worrying or disturbing livestock. You should either go through a neighbouring field or proceed carefully by keeping as far from the animals as possible. Keep dogs on a short lead if there is no alternative route available.	You should keep animals known to be dangerous away from fields crossed by a core path. If this is not practicable and if public access can be expected, you should alert the public and indicate an alternative route.
Forests and woods	The access rights can be exercised in forests and woods. If you are cycling or horse riding, you must keep to suitable paths. You must not hinder operations such as tree felling and extraction, and follow any local guidance or diversions.	Where possible, provide paths and other facilities to help people to exercise the rights responsibly. Follow guidance on operations (see tree felling and extraction).
Gates, fences, drystone dykes and hedges	You should use a gate where one has been provided. You must leave the gate as you find it. Do not climb over gates, fences, dykes or hedges unless there is no reasonable and practicable alternative available. If you have to climb over avoid causing any damage and climb over a gate at the hinge end.	You must not lock gates where there is no reasonable cause to do so and not at all on core paths. You must not fence across paths without providing a gate. You should, wherever possible, avoid channelling the public between two fences, and avoid using barbed wire or electric fences alongside paths.
Golf courses	You can exercise the access rights over golf courses, but only for the purposes of getting from one place to another. You must not disturb a golf game or damage the playing surface. Walkers must follow paths where they exist and keep off greens and tees at all times. Cyclists and horse riders must keep to paths at all times and never go on to any other part of a golf course.	Wherever practicable, you should provide paths around or across the course and also advise people on the safest ways through the course. When the course is snow covered, consider where sledging can take place without causing damage.
Hills, mountains and moorland	You should take special care during the deer stalking and grouse shooting seasons (see annex 2). If you are cycling or horse riding you must keep to paths and tracks where they exist, and where there are no paths, you must avoid fragile and sensitive ground.	If you are fencing off land, you must provide gates or other access points where the fence crosses paths, tracks or other recognised routes.

	Responsible behaviour by the public	Responsible behaviour by land managers
Historic sites	The access rights do not extend to buildings. In these cases, you must obtain permission or pay any entrance charges at manned sites. You must not damage or disturb any historic site.	You can charge for services provided and for entry to buildings, but not for access to the outdoors. Public bodies should provide information to visitors on how they might best avoid causing damage.
Open pasture land with livestock	In more open countryside you should keep a sensible distance from animals and avoid driving them over the land.	
Paths and tracks	The access rights extend to all paths and tracks except where these routes go over land on which the rights cannot be exercised. You must only cycle or ride on paths that will not be damaged by your use. If the path is not suitable you must dismount and walk until the path becomes suitable again.	You must avoid deliberately or unreasonably blocking paths. If you wish to divert or close a path, follow any formal procedures. You must not use signs or notices to discourage access.
River banks and loch shores	As these places are often a refuge for wildlife and are often used for fishing and related management, you must take care to avoid causing damage or disturbance. If you wish to use a boat and there is a slipway or launching point available for public use nearby you should use it. Islands can often be a good refuge for wildlife so you must take special care if you are passing by or landing on an island.	If you wish to use fencing to help regenerate or improve riparian habitats, you should provide gates or other access points, or provide a reasonable, alternative route.
Rivers and lochs	You must not disturb birds and other wildlife, or pollute the water. You must not canoe, sail or row in water that is not suitable for the activity: make sure that the river or loch is not too small for your activity or the numbers likely to take part. Consider the needs of other users, particularly anglers, and of wildlife. Follow any local guidance.	You should consider providing facilities to assist visitors and your own needs.
Sports pitches	The access rights do not extend to school sports pitches that are next to a school, or to any sports pitch when it is in use. You must not damage the playing surface. Keep dogs off sports pitches. Horse riders and cyclists must not go across sports pitches at any time.	Where there are several pitches, you should consider providing a signposted route around the margins of the area covered by the pitches.
Visitor attractions	The access rights do not extend to visitor attractions or other managed sites where an entry charge is payable. You must pay any charge requested.	You can charge for services provided, such as car parking, leaflets, refreshments and serviced camping areas, or for entry to a building and garden. You cannot charge for access to the outdoors.
Wildlife sites	You must take special care not to damage the site or disturb its wildlife, or to interfere with its management or enjoyment by others. You must	You should provide information on the importance of the site and on the best routes for

	Responsible behaviour by the public	Responsible behaviour by land managers
	follow any local guidance, such as byelaws or management rules. Keep to paths if you are cycling or riding.	people to follow. Providing paths can help to minimise damage.
LAND MANAGEMENT OPERATIONS		
Field and crop spraying	Land managers often need to apply fertilisers or other materials, such as slurry and lime, to fields or crops. Fertilisers are also applied to golf courses and sports pitches. The duration of the hazard depends on material used but should not normally extend more than a few days. As these can be hazardous to public health, you must follow any notices advising you of when it is not safe to proceed or to do particular activities (such as picnicking).	Where appropriate, you must provide information on the area sprayed and the material used at any obvious access points, such as car parks and gates.
Fields which are being ploughed or where crops are being sown or harvested	You must not hinder such operations. Follow any local guidance. If you encounter an operation, proceed carefully, keep a safe distance and follow any advice provided by the land manager. It might be safest to go through a neighbouring field or keep to the edge of the field.	You must keep the area and duration of the operation, and the type of limitation, to the minimum required. You should advise the public of the duration of and area covered by the operation and provide an alternative route if a core path is affected.
Tree felling and extraction	Some tree felling operations may affect an area for several months. You must not hinder these operations. Follow any signs or alternative routes provided. Take special care if you are using a good forest track, particularly if you are cycling at speed, as these might be in use for extracting timber by heavy lorries.	You must keep the area and duration of the operation, and the type of limitation, to the minimum required. You should advise the public of any limitations at the main access points and provide alternative routes. Where practicable, concentrate felling at times when public use is likely to be lowest. Take special care when extracting timber along forest tracks as people might be using the track.
LAND USES AND SPORTING ACTIVITIES		
Deer stalking in forests and woods	During the shooting season (annex 2), you should avoid disturbing a stalk by exercising care, particularly at dawn and dusk, and by following any signs and notices.	You should respect the needs of people exercising the rights responsibly. Be aware of where recreational use is likely to be reasonable. You should put up notices at obvious access points, such as gates and car parks, telling people about the duration of the shoot and recommending alternative routes.

	Responsible behaviour by the public	Responsible behaviour by land managers
Deer stalking on the open hill	During the stalking season (see annex 2), you should avoid disturbing a stalk by taking reasonable steps in advance and locally to find out where stalking is taking place and modifying your route or activity if asked to do so. Wherever possible, avoid crossing land where shooting is taking place.	You should respect the needs of people exercising the rights responsibly. Be aware that most people will exercise the access rights along paths, popular routes and ridge lines. Provide as much information as possible on where stalking is likely to take place.
Fishing	If on land, you should keep a safe distance from an angler and avoid any casting lines. If you are on the water, you should draw the attention of anglers to your presence. You should keep noise to a minimum. On lochs, you should keep as far as possible from the angler. On rivers or other confined waters, you should await a signal from the angler to proceed.	You should respect the needs of people exercising the rights responsibly, and allow people to pass at the earliest opportunity.
Grouse shooting	During the shooting season (see annex 2), you should avoid disturbing a shoot by taking reasonable steps in advance and locally to find out where shooting is taking place and modifying your route or activity if asked to do so. Avoid crossing land where shooting is taking place until it is clear to do so.	You should respect the needs of people exercising the rights responsibly. Be aware that most people will exercise the access rights along paths and other popular routes. Provide as much information as possible on where shooting is likely to take place.
Low-ground shooting	You should avoid disturbing a shoot by taking reasonable steps, in advance and locally, to find out where shooting is taking place and modifying your route or activity if asked to do so. Avoid crossing land when shooting is taking place. Be especially careful at dawn and dusk.	You should respect the needs of people exercising the rights responsibly. Be aware that most people will exercise the access rights along paths and other popular routes. Provide as much information as possible on where shooting is likely to take place.
Sporting and other events	Land managers sometimes hire out their land for sporting and other events, such as car rallies, local shows, clay pigeon shoots, pop concerts, golf tournaments and sheep dog trials. These events are usually well-organised, sometimes with a charge for entry, and with marshalls and signs directing visitors. Land managers can recommend limitations on how you exercise the rights, such as providing an alternative route, whilst an event is underway; you must follow these recommendations.	Inform the public of any limitations, in advance and at obvious access points, such as gates and car parks. Keep any limitations to the minimum required.
OTHER RECREATIONAL ACTIVITIES COVERED BY THE ACCESS RIGHTS		
Canoeing, rafting, rowing and	You must not touch nets or other fishing tackle, or disturb anglers and other water users. You should travel quietly and not unnecessarily disturb the	You should work with the local authority and/or local groups to identify suitable parking and

	Responsible behaviour by the public	Responsible behaviour by land managers
sailing	water, particularly if close to anglers. On lochs, you should keep as far as possible from the angler. On rivers or other confined waters, you should await a signal from the angler to proceed. Take great care when entering and leaving water to avoid damaging the banks or disturbing wildlife. Use a slipway if one is close by. You can carry your canoe or boat across land. You must avoid polluting the water.	launching sites.
Cycling	You must only cycle along paths that are suitable for the activity and for the size of your group. If the path is not suitable (for example, if it is liable to be damaged or is too narrow), you must seek out a more suitable route or dismount. If you cycle off-path, you must not go over sensitive and fragile ground. Do not endanger walkers and horse riders and give way to them on a narrow path.	You should work with the local authority to identify paths or routes across your land which are suitable for cycling.
Horse riding	You must only ride along paths that are suitable for the activity and for the size of your group. If the path is not suitable (for example, if it is liable to be damaged or is too narrow), you must seek out a more suitable route or dismount. If you riding off a path, you must not go over sensitive and fragile ground. Do not endanger walkers or cyclists or give them any cause for concern.	You should work with the local authority to identify paths or routes across your land which are suitable for horse riding.
Picnicking	For your own health, you must not picnic in fields where farm animals are present or may have been recently. You must not feed any farm animals and take all litter, including any food scraps, home with you. Personal hygiene is very important.	Where appropriate, you must provide information on the area sprayed and the material used at any obvious access points, such as car parks and gates.
Swimming	You must not touch nets or other fishing tackle, or disturb anglers and other water users. Avoid polluting the water. In periods when a river is low, take special care not to swim in pools as fish are likely to be present in these pools and will find it dangerous to move to another pool.	
Wild camping	Wild camping can be an essential part of a long journey or of enjoying remoter countryside. Wild camping is lightweight and transitory. You must wild camp only: on unenclosed land; in small numbers; well away from any building or road; and for one or two nights in any one place. You should take special care to avoid disturbing deer stalking or grouse shooting during the relevant seasons (see annex 2). You must not: use an open fire; leave behind any litter; or cause any pollution.	You must allow people to wild camp so long as they do so on unenclosed land well away from buildings or roads. If informal camping occurs close to remote roads, you should work with local authorities and recreation bodies to assist the management of such camping.

Where to get help and information at a glance

If everyone follows the Code, the number of problems and occasions when help is required will be minimised.

1. Dealing with irresponsible behaviour

- if someone is behaving irresponsibly and causing unreasonable interference, by not following the responsibilities set out in the legislation or the Code, they should be asked to modify their behaviour
- if that person fails to modify their behaviour then they forfeit their access rights
- if the person persists in behaving irresponsibly, the land manager can ask the person to leave and seek the assistance of the local authority or the Police
- if the behaviour is criminal in nature, land managers should contact the Police
- if a member of the public encounters what they believe is a deliberate or unreasonable obstruction which prevents or hinders them from exercising the rights then they should report it to the local authority
- the local access forum can help to resolve any continuing dispute.

2. Public bodies have a responsibility to

- respect, safeguard and promote the rights and responsibilities through their policies, plans and actions
- provide the help and information that the public and land managers need..

3. Scottish Natural Heritage must

- publicise the Code (working with local authorities) and promote compliance with it.

4. Local authorities must

- establish local access forums in their areas
- prepare a core path plan for their areas
- uphold the access rights
- publicise the Code (working with Scottish Natural Heritage).

5. Local authorities have powers to

- remove obstructions
- divert and close paths
- provide recreational facilities, including paths
- maintain paths
- provide ranger services
- introduce management rules and byelaws
- acquire land or water to help people exercise the access rights.

6. You can get further information by

- contacting your local authority or local ranger service
- contacting (new access website, etc).

6. Where to get help and information

6.1 If everyone follows the Code, the number of problems and occasions when help is required will be minimised. However, there will be some occasions when you will need help or information. This section of the Code provides you with practical advice on getting help and information, and on how to deal with irresponsible behaviour.

a. Dealing with irresponsible behaviour

6.2 A key objective of the legislation and the Code, supported by a major education and information programme, is to encourage responsible behaviour and thereby minimise the incidence of irresponsible behaviour, particularly where such behaviour is accidental or unintentional. Sanctions already exist for a wide range of irresponsible and criminal activities (see Annex 1) and the legislation excludes certain types of conduct from the access rights (see section 2). Together with the Code, there is now a framework for determining whether or not someone is exercising the access rights responsibly or if a land manager is using or managing the land irresponsibly in relation to the access rights.

6.3 Some people will behave irresponsibly, most likely through accident or by simply not understanding or not being aware that they are causing unreasonable interference. The process that should be followed in these cases is as follows:

- if someone is behaving irresponsibly and causing unreasonable interference, by not following the responsibilities set out in the legislation or the Code, they should first be asked to modify their behaviour
- if that person fails to modify their behaviour then that person forfeits their access rights
- the person can then be asked to leave and, if they fail to do so, the land manager can seek the assistance of the local authority or the Police
- if the person's behaviour is criminal in nature, the land manager should contact the Police as soon as possible, and the response of the Police should be as swift as is reasonable and practicable for the location.

6.4 If someone exercising the access rights encounters what they believe is a deliberate or unreasonable obstruction which prevents or hinders them from exercising the access rights they should report this to the local authority. If a land manager is thought to be persistently and interfering unreasonably with the exercise of the access rights, then they should be reported to the local authority. The local authority should then decide what course of action, if any, is required.

6.5 Ultimately, if a case involving a claim of irresponsible behaviour and unreasonable interference – either against a member of the public or a land manager – was serious enough it could potentially go to a court of law. In this

eventuality, evidence relating to the extent to which the person was behaving irresponsibly and causing unreasonable interference as a result might be considered. Whether or not someone was following the obligations set out in this Code could be taken into account in judging the weight of this evidence.

6.6 If land managers experience persistent problems with people acting irresponsibly, they should draw this to the attention of the local authority and the local access forum and ask for their assistance. What response is appropriate will depend on the circumstances but might include improvements to paths in the area, the deployment of a ranger service, better management of visitors or, if the problems are causing significant problems on the ground, the introduction of byelaws. Ultimately, a local authority can make use of their power to exempt particular land or exclude particular conduct from the access rights.

b. What local authorities and other public bodies can do to help

6.7 Public bodies, particularly local authorities and Scottish Natural Heritage, have a key role to play in making the access rights work on the ground. This Code recommends that public bodies fulfil two responsibilities.

6.8 They should respect, safeguard and promote the rights and responsibilities through their policies, plans and actions. This will help to ensure that the access rights work well on the ground. This responsibility could be fulfilled, for example, by:

- ❑ reviewing and, where necessary, amending or developing policies and programmes of assistance (such as grants);
- ❑ considering the impact of new development proposals on the access rights (such as through the development control process);
- ❑ reviewing and, where necessary, amending byelaws and management rules;
- ❑ accommodating more public access on their land;
- ❑ setting a good example by fully meeting their obligations as land managers under the Code;
- ❑ co-ordinating their access policies and initiatives with local authorities.

6.9 Public bodies should also provide the help and information that the public and land managers need, particularly by making full use of their duties and powers. This will help ensure that the exercise of the access rights and the management of that use works on the ground.

6.10 In providing help and information, the staff of public bodies must show courtesy and consideration to all. Public bodies should make every effort to involve local communities and the new local access forums in their access work.

This will help to ensure that the whole community - and especially those land managers who provide access - are not only comfortable with the new arrangements but make a positive contribution to facilitating and managing access locally.

6.11 The legislation gives Scottish Natural Heritage a duty to publicise the Code (working with local authorities) and to promote compliance with it. The legislation also gives local authorities a wide range of new duties and powers. Informing the public and land managers about these is a key step in ensuring that they are used. Each local authority must:

- ❑ uphold the access rights by asserting, protecting and keeping open and free from obstruction or encroachment any route or other means by which people exercise the access rights;
- ❑ establish at least one local access forum for its area to advise it on any matter to do with the exercise of the access rights or the core paths plan, and to offer assistance to any dispute arising;
- ❑ prepare a core paths plan for its area, within 2 years, for a system of paths (known as core paths) sufficient for giving people reasonable access throughout its area;

6.12 Local authorities also have powers to remove obstructions, provide facilities and ranger services, and to manage access (see annex 3). They can also introduce more formal management schemes, particularly in places where levels of use raise concerns about safety, public health or amenity, in places where the natural heritage is under serious threat, and in places where there is a need to find a balance between different recreational activities. These schemes can include the introduction of management agreements, management rules (on their own land) or byelaws, and the acquisition of land. Before using such powers, local authorities should consult their local access forum and other local interests.

c. Where to get further information

6.13 It is not possible for the Code to cover every possible situation, setting or activity. Free information and advice on your rights and responsibilities should be available from various public bodies, particularly local authorities and Scottish Natural Heritage. If you need more detailed advice or guidance, the main point of contact should either be your local authority or your local ranger service. Alternatively, you could contact the representative group for your recreational activity or for your land management activity. You could also contact the (website address) which will have more detailed information and advice on the access rights and responsibilities.

Annex 1. Existing legal offences

This annex lists, in alphabetical order, activities and forms of irresponsible behaviour that are proscribed or limited by the existing statutory law. In addition to the statutory law, the common law also provides redress against some types of behaviour, such as breach of the peace and nuisance. The access rights do not extend to any of these activities.

Activity	Statutory reference	Comments
Aggravated trespass	Criminal Justice and Public Order Act 1994	A person commits an offence if they trespass on land and, in relation to any lawful activity people are engaged in or about to undertake, they do anything that is intended to intimidate those persons or to obstruct or hinder the activity. Failing to leave having been asked to do so by a police officer is an offence.
Collective trespass	Criminal Justice and Public Order Act 1994	If two or more people are trespassing and are present for the common purpose of residing there for any period, and have been asked to leave, and have caused damage or used threatening, abusive or insulting words or behaviour, or have between them 6 or more vehicles, they can be asked to leave by the Police. If they fail to do so, they commit an offence.
Control of dogs	Civic Government (Scotland) Act 1982	Any person in charge of a dog which fouls a footpath or way, or a verge maintained by a council and adjacent to a footpath/way, or any place maintained by a local authority for recreational purposes is guilty of an offence.
Control of dogs	Animals (Scotland) Act 1987	Provides a defence for people who kill or injure a dog worrying livestock (there are stringent conditions on this).
Damage to ancient monuments	Ancient Monuments & Archaeological Areas Act 1979	It is an offence to carry out any works without the consent of Scottish Ministers which result in: the demolition or destructions of or any damage to a scheduled monument; the removal, repair, alteration or addition to a scheduled monument; any tipping operations on land in, on or under which there is a scheduled monument.
Damage or disturbance to animals	Wildlife & Countryside Act 1981	For protected species (about 100), it is an offence to kill or injure the animal, to capture or keep the animal, to destroy, damage or obstruct access to its place of shelter, and to disturb the animal while using its place of shelter. Other offences relate to badgers, bats, deer, seals, whales and dolphins.
Damage or disturbance to wild birds	Wildlife & Countryside Act 1981	There is a wide variety of offences relating to the killing or injuring any wild bird, capturing or keeping any wild bird, destroying or taking eggs, or destroying, damaging or taking the nest of any wild bird whilst it is in use or being built.
Damage to plants	Wildlife & Countryside Act 1981	It is an offence to pick, uproot or destroy any plant in Schedule 8 or to uproot any plant not in that Schedule.

Activity	Statutory reference	Comments
Driving a vehicle off road	Road Traffic Act 1988	It is an offence to drive a motor vehicle without lawful authority on common land, moorland or land of any other description (not part of a road) or on any road being a footpath or bridleway. Driving a motor vehicle on to land within 15m of a road for the purpose of parking is not an offence.
Dropping of litter	Environmental Protection Act 1990	It is an offence to leave litter in any public open place (a place in the open air which the public are entitled or permitted to have access without payment).
Fishing	Salmon & Freshwater Fisheries (Protection) (Scotland) Act 1951 and Freshwater & Salmon Fisheries (Scotland) Act 1976	Fishing for salmon or sea trout without lawful authority or written permission from the owner of the fishing rights is a criminal offence. Fishing for brown trout and other freshwater fish without written permission or legal rights is guilty of a criminal offence in an area covered by a Protection Order.
Fly tipping	Environment Protection Act 1990	It is an offence to deposit controlled waste (including household, industrial and commercial waste) on any land without a waste management licence (except for household waste deposited within the curtilage of the house).
Lighting fires	Trespass (Scotland) Act 1865	Any person who lights a fire on or near any private road or enclosed or cultivated land or in or near any plantation without the consent and permission of the owner or land manager of the land is guilty of an offence.
Poaching	Night Poaching Act 1828	It is an offence to take or destroy any game on any land, whether open or enclosed, or on any public road, or by night to enter upon any land with any gun for the purpose of taking or destroying game.
Poaching	Game (Scotland) Act 1832	It is an offence to trespass on land without leave of the owner or proprietor in search of game, woodcock, snipe, wild ducks or rabbits during daytime.
Polluting water	Water (Scotland) Act 1980	Any person guilty of an act or neglect whereby any spring, well or adit used or likely to be used for human consumption or domestic purposes or for manufacturing food or drink for human consumption is polluted or is likely to be polluted is guilty of an offence.
Polluting water	Control of Pollution Act 1974	It is an offence, in the absence of having a permit from SEPA, to pollute controlled waters (these are relevant territorial waters, inland freshwater and groundwater).
Safety	Health & Safety at Work Act 1974	It is an offence to interfere intentionally with or misuse anything provided in the interests of the safety, health or welfare of people.
Spawning fish	Salmon Fisheries (Scotland) Act 1868	It is offence to disturb spawning fish and spawning beds.
Trespassory assemblies	Criminal Justice and Public Order Act	Trespassory assemblies (20 or more people) can be prohibited where the permission of the land manager has not been given and if they might result in serious hinder

Activity	Statutory reference	Comments
	1994	to the life of the community or in significant damage to land or buildings that are of architectural, archaeological or scientific importance. Various offences exist in connection with trespassory assemblies.
Vandalism	Criminal Justice (Scotland) Act 1980	Any person who without reasonable excuse wilfully or recklessly destroys or damages any property belonging to another is guilty of an offence.
Worrying of livestock by dogs	Dogs (Protection of Livestock) Act 1953	If a dog worries livestock on any agricultural land the dog owner or person in charge of the dog is guilty of an offence. Worrying includes a dog attacking or chasing livestock, or being at large in a field in which there are sheep.

Note: the provisions under the Wildlife & Countryside Act 1981 implement, in part, the requirements of the EU Birds or Habitats & Species (as appropriate) Directives.

Annex 2. Dates of sporting seasons

This annex lists the dates of the main sporting seasons. Some dates are statutory and some are set out in guidance, such as local byelaws.

Pheasant	October 1 to February 1
Partridge	September 1 to February 1
Red Grouse	August 12 to December 10
Black Grouse	August 20 to December 10
Wildfowl (foreshore)	September 1 to February 20
Wildfowl (inland)	September 1 to January 31
Salmon	February to September (see note below)
Sea trout	March to September (see note below)
Brown trout and other freshwater fish	March 16 to October 6
Red deer and sika deer	Stags: 1 July to 20 October Hinds: 21 October to 15 February
Roe deer	Bucks: 1 May to 20 October Doe's: 21 October to 30 April

Notes

Salmon: the annual close time must last a minimum of 168 days between September and February. Exact dates are set through local regulations.

Sea trout: the annual close time must last a minimum of 153 days between September 30 and March 1.

In practice, the season for red deer stalking normally starts in mid-August.

There is no shooting of birds or deer, or fishing for salmon or sea trout, on Sundays.

Annex 3. The duties and powers of local authorities

The legislation gives local authorities a wide range of duties and powers relating to the access rights. They also have powers under other legislation, particularly in relation to the provision of paths and other facilities, and the assertion and protection of public rights of way.

Duty or power	Description
Acquisition	A local authority can purchase land or water to enable or facilitate the exercise of the access rights. They can do so compulsorily with consent of Ministers.
Byelaws	A local authority can introduce byelaws over any land on which the access rights can be exercised for the purposes of preserving order, preventing damage, preventing nuisance or danger, or for preserving or improving amenity. They must follow procedures set out in legislation and consult relevant interests.
Core paths and core path networks	Each local authority must prepare a core paths plan within 2 years and keep this under review. This plan must set out a system of paths (called core paths) sufficient for giving people reasonable access throughout their area. They must follow procedures set out in legislation and consult relevant interests.
Exemption of particular land or conduct	A local authority can exempt particular land or exclude particular conduct from the access rights. Longer exemptions require Ministerial consent.
Local access forums	Each local authority must establish at least one local access forum covering its area. These forums advise the local authority and others on any matter to do with the exercise of the access rights and on the core path plans. They can also offer assistance to the parties of any dispute about the access rights, core path plans or the use of core paths.
Management agreements	These allow the local authority and the land manager to agree on the level of management needed in a particular area to promote recreation and to safeguard the natural beauty and amenity of the area.
Management rules	These allow the local authority, on its own land, to manage recreational use.
Measures for safety, protection, guidance and assistance	A local authority can take steps to warn of, and protect people from, any danger on land on which the rights are exercisable, or to indicate or enclose recommended routes or established paths, or give directions to such land.
Path agreements	A local authority can enter agreements to delineate and maintain core paths.
Provision of paths and other facilities	A local authority can create paths and install facilities such as gates, stiles, seats, lavatories and other facilities with the consent of the owner.
Publicise the Code	Along with SNH, each local authority has a duty to publicise the Code.
Ranger services	A local authority can appoint rangers to act over any land on which the access rights are exercisable for the purposes of advising and assisting the public on any matter to do with the access rights and any other duties as the local authority determines.

Duty or power	Description
Removal of obstructions	A local authority can take steps to remove any prohibiting sign, obstruction or dangerous impediment that is intended to prevent or deter anyone from exercising the access rights, and recover the costs of doing so.
Upholding of access rights	Each local authority has a duty to assert, protect and keep open and free from obstruction or encroachment any route or other means by which the access rights can reasonably be exercised.