

## **Scottish Outdoor Access Code Submission**

### **Scottish Countryside Alliance's Response to the Draft Legislation on the Scottish Outdoor Access Code**

The Scottish Countryside Alliance is grateful to SNH for the opportunity to respond to the consultation document on the Scottish Outdoor Access Code.

The Land Reform Act is already law, but its successful implementation depends on the introduction of the Access Code, which, after the consultation period managed by SNH, will be debated in the Scottish Parliament.

We are aware of the difficulties of introducing a new code of behaviour to a largely urban public. We therefore recommend that SNH initiate a public awareness campaign to introduce people to the Access Code and the spirit of partnership in which it has been developed. Only by doing this can we hope to give the public a complete understanding of the countryside.

#### **Where and when you can exercise access rights**

2.2 There is concern about promoting access around field margins of growing crops and grassland.

- What is the definition of grassland? Example: newly sown grass, grass sown for specific purposes, grass sown for turf farming.
- Encouragement must be given for people to use a path instead using field margins. Tramlines in cereal crops should not be used for access.
- With Land managers being encouraged to enter Rural Stewardship Schemes with conservation benefits, field margins are going to be used for creating wildlife habitats. There is an implicit contradiction here between wildlife conservation (eg nesting grey partridges and lapwings) and public access.
- Local authorities should be encouraged to increase their core path network, and also fund the maintenance.

2.4 There is strong and general concern about night access (described by farmers as "a burglars' charter"). With night access there is huge concern over increased rural crime. Night Access should not be encouraged.

2.5 It is now imperative that a public awareness campaign is promoted throughout Scotland. This will enable people taking access to become aware of their responsibilities and to appreciate the nature of the partnership which the Code promotes. It is essential that the general public are aware of the countryside as a living/working environment. It must also be understood that farmyards are very dangerous places: at least as dangerous as major building sites from, which the public are specifically excluded to ensure their safety.

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### **What you can do under access rights**

2.8 “Recreational purposes” is too loosely defined. If we take canoeing as an example, who should take precedence, the fisherman who has paid to fish on a river and who contributes massively to the rural economy, or the canoeist who probably contributes less to the local economy, although both have equal status? Will the Riparian owner be liable for a claim from a disgruntled fisherman? Who is liable?

2.9 Promotion of approved campsites is also important. Rather than having wild camping with its associated litter and excrement posing a health hazard to people and animals, land managers should be encouraged to develop properly serviced campsites, and to earn revenue from them. If wild camping is to be promoted, what restrictions should apply?

### **What about public rights of way?**

2.20 Local authorities must introduce more core path networks for use by walkers, horse-riders and cyclists. They should also take responsibility for maintenance of these.

### **What is responsible behaviour?**

3.4 It is important to emphasise the range of activities carried out by people who live and work in the countryside. For example, from a safety point of view, people taking access should be very aware of the dangers of shooting/stalking during their respective season.

\* Consideration should be given for introducing communication systems on the core network path systems in the remoter areas of Scotland. Example being Hill Phones used on stalking estates to encourage access.

### **Take responsibility for your own actions**

3.9 Liability is a major issue. Who is covered by what, and for what activity?  
People who would like to take responsible access must be encouraged to take insurance cover for all eventualities. Land managers cannot be liable for all their misfortunes.

### **Respect People’s privacy and peace**

3.10 Concern here about reasonable privacy and peace, but no mention about private life. Curtiledge surrounding houses and buildings is a contentious issue.

3.11 Do not promote access around houses, gardens and farm buildings. Point out the dangers of a working farm. Be very clear with the definition of curtilidge surrounding property in order to safe guard privacy as certain types of landscape and areas will require different curtilidge.

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### **Access over land on which a land management operation is under way**

3.20 Access must not hinder land management operations.

- Timber extraction - who would be liable to penalty clauses?
- Consideration must be given to having a closed period for certain activities, which include many country sports.

### **Access where there are farm animals**

3.24 Much easier to encourage everyone taking access to avoid enclosed fields with livestock

- What agreements can be reached over padlocks being used to secure gates for the protection of livestock? Will funds be put forward for alternative methods of access, e.g. styles over fences?

### **Passing through fields**

3.27 There is a problem here with the public being able to recognise sown crops. Example: Turf farming must be exempt from access.

3.28 Will the public recognise grassland gallops and avoid interfering with horses in training. Field margins should be avoided – stick to paths.

### **Natural heritage**

3.33 Wildlife can be disturbed all the year round but particularly in the breeding season. Avoid access over managed habitats. Would signage be a solution?

### **Pollution**

3.35 The code must make people aware of the penalties that will be imposed if pollution occurs.

### **Keep your dog under proper control**

3.37 Dogs should not be taken through enclosed fields of livestock for bio-security and cross compliance reasons. Land managers raise livestock under strict Quality Assurance Schemes, so who would be liable if infection was found in the livestock as a result of a dog contaminating the ground?

### **Take extra care if you are organising a group or event**

3.48 Commercial photograph. This is a non-starter without owners consent for photographing houses and property, otherwise breaches of the Convention on Human Rights could occur.

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### **Managing land and water responsibly for access**

1. For this to be successful, the needs for all rural communities must be taken into account before implementation of this code.
2. Before the code is finalised, any adverse effects on the rural environment must be addressed.
3. The SCA recommends a full review of the social and economic impact of this new access code on the communities and environment two years after implementation.

### **Conclusion**

In Scotland most land managers have always respected public right of access, but the code must be written in such a way that the public understand the issues clearly. There is a balance to be struck so that confusion is kept to an absolute minimum for the benefit of those who work in, live in, use or enjoy the Scottish countryside.