

## Annex 1 Existing criminal offences created by statute

This annex lists, in alphabetical order, the main categories of criminal behaviour that are statutory offences. The common law also provides for action where, for instance, a breach of the peace or malicious mischief is alleged. Access rights do not extend to any of these activities. The annex is meant to provide an overview summary. For detailed information, look at the relevant legislation. Provisions within the Highway Code for cycling and horse riding must be followed.

Activity	Statutory reference	Comments
<b>Aggravated trespass</b>	Criminal Justice and Public Order Act 1994 (Section 68)	A person commits this offence if, in relation to any lawful activity people are engaged in or about to undertake, the person does anything that is intended to intimidate and deter those people or to obstruct or disrupt the activity.
<b>Collective trespass</b>	Criminal Justice and Public Order Act 1994 (Section 61)	If two or more people are trespassing with common purpose to reside on land for any time, and: <ul style="list-style-type: none"> <li>• have caused damage, or</li> <li>• used threatening, abusive or insulting words or behaviour, or</li> <li>• have between them 6 or more vehicles, they can be directed to leave by the police. If they fail to do so, they commit an offence.</li> </ul>
<b>Control of dogs (fouling)</b>	Civic Government (Scotland) Act 1982 (Section 48)	If you are in charge of a dog and allow it to foul: <ul style="list-style-type: none"> <li>• a footpath or footway, or</li> <li>• a grass verge maintained by a council and adjacent to a footpath/footway, or</li> <li>• any place maintained by a local authority for recreational or sporting purposes, you are guilty of an offence.</li> </ul>
<b>Control of dogs (fouling)</b>	Dog Fouling (Scotland) Act 2003 (Section 1)	A person commits an offence under this law if they do not immediately remove the faeces defecated by their dog in any public open place.
<b>Control of dogs (worrying of livestock by dogs)</b>	Dogs (Protection of Livestock) Act 1953 (Section 1)	If a dog worries livestock on any agricultural land the person in charge of the dog is guilty of an offence. Worrying includes a dog attacking or chasing livestock, or being loose in a field where there are sheep.

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<b>Control of dogs</b> (worrying of livestock by dogs)	Animals (Scotland) Act 1987 (Section 4)	This is not an offence, but is included here because this Act provides a defence for people who kill or injure a dog which is worrying livestock, subject to stringent conditions.
<b>Damage to ancient monuments</b>	Ancient Monuments & Archaeological Areas Act 1979 (Sections 2, 19)	It is an offence to carry out, cause or permit any works, without the consent of Scottish Ministers, which result in the demolition or destruction of or any damage to a Scheduled Monument.
<b>Damage or disturbance to animals</b>	Wildlife & Countryside Act 1981 (Sections 9–10) and The Conservation (Natural Habitats etc) Regulations 1994	For protected species, it is an offence to: <ul style="list-style-type: none"> <li>• kill or injure the animal,</li> <li>• capture or keep the animal,</li> <li>• destroy, damage or obstruct access to its place of shelter, and</li> <li>• disturb the animal while using its place of shelter.</li> </ul> Other offences relate to badgers, bats, deer, seals, whales and dolphins. For protected species such as bats, otters, wildcats, great crested newts and natterjack toads, under European legislation it is an offence to: <ul style="list-style-type: none"> <li>• capture, kill or disturb the animal,</li> <li>• take or destroy its eggs,</li> <li>• damage or destroy its breeding site or resting place.</li> </ul> Contact your local Scottish Natural Heritage (SNH) office for further information.
<b>Damage or disturbance to wild birds</b>	Wildlife & Countryside Act 1981 (Sections 1–6) and The Conservation (Natural Habitats etc) Regulations 1994	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. Contact your local SNH office for further information.
<b>Damage to plants</b>	Wildlife & Countryside (Section 13) and The Conservation (Natural Habitats etc) Act 1981 Regulations 1994	It is an offence to dig up or remove any wild plant without the permission of the landowner. Certain plants are specially protected and it is an offence to pick, collect, cut, uproot or destroy these species, even if the landowner agrees. It is also an offence to keep, sell, advertise or exchange such plants. Specially protected plants are listed in Schedule 8 to the 1981 Act and in the list of European protected species in Schedule 4 to the 1994 Regulations. They include Killarney fern, floating-leaved water plantain, slender naiad and yellow marsh saxifrage. Contact your local SNH office for further information.

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<b>Driving a vehicle off road</b>	Road Traffic Act 1988 (Section 34)	<p>It is an offence to drive a motor vehicle without lawful authority on:</p> <ul style="list-style-type: none"> <li>• land of any description (not forming part of a road), or</li> <li>• a footpath or bridleway except in an emergency.</li> </ul> <p>It is not an offence to drive a motor vehicle on land within 15 yards of a road for the purpose of parking the vehicle – although this does not confer any legal right to park the vehicle.</p>
<b>Dropping of litter</b>	Environmental Protection Act 1990 (Section 87)	It is an offence to leave litter in any public open place (a place in the open air where you can go without paying).
<b>Fishing</b>	Salmon & Freshwater Fisheries (Protection) (Scotland) Act 1951 (Section 1) and Freshwater & Salmon Fisheries (Scotland) Act 1976 (Section 1)	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 a criminal offence in an area covered by a Protection Order.
<b>Lighting fires</b>	Trespass (Scotland) Act 1865 (Section 3)	<p>You are guilty of an offence if you light a fire:</p> <ul style="list-style-type: none"> <li>• on or near any private road,</li> <li>• on enclosed or cultivated land,</li> <li>• in or near any plantation,</li> </ul> <p>without the consent of the owner or land manager.</p>
<b>Lighting Fires</b>	Civic Government (Scotland) Act 1982 (Section 56)	Any person who lays or lights a fire in a public place so as to endanger any other person, or to give reasonable cause for alarm or annoyance, or so as to endanger any property is guilty of an offence. A public place is any place to which the public have unrestricted access.
<b>Obstruction in a public place</b>	Civic Government (Scotland) Act 1982 (Section 53)	Any person on foot in a public place who wilfully obstructs the lawful passage of any other person is committing an offence. A public place means any place to which the public have unrestricted access.
<b>Poaching</b>	Night Poaching Act 1828 (Section 1)	<p>It is an offence to take or destroy any game:</p> <ul style="list-style-type: none"> <li>• on any land, whether open or enclosed, or</li> <li>• on any public road.</li> </ul> <p>It is also an offence to go on any land at night with a gun for the purpose of taking or destroying game.</p>

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<b>Poaching</b>	Game (Scotland) Act 1832 (Section 31)	It is an offence to trespass on land without the leave of the owner or proprietor in search of game, woodcock, snipe, wild ducks or rabbits during daytime.
<b>Polluting water</b>	Water (Scotland) Act 1980 (Section 75)	If you deliberately or accidentally pollute any spring, well or adit used or likely to be used for: <ul style="list-style-type: none"> <li>• human consumption,</li> <li>• domestic purposes,</li> <li>• manufacturing food or drink for human consumption,</li> </ul> you are guilty of an offence.
<b>Polluting water</b>	Control of Pollution Act 1974 (Section 31)	If you cause or knowingly permit to enter surface or ground water <ul style="list-style-type: none"> <li>• any poisonous, noxious or polluting matter, or</li> <li>• any solid waste matter, you are committing an offence.</li> </ul>
<b>Safety</b>	Health & Safety at Work Act 1974 (Sections 8, 33)	It is an offence to interfere intentionally with or misuse anything provided for the safety, health or welfare of people.
<b>Spawning salmon</b>	Salmon Fisheries (Scotland) Act 1868 (Section 19)	It is offence to wilfully disturb any salmon spawn, or spawning beds and shallows where salmon spawn may be.
<b>Trespassory assemblies</b>	Criminal Justice and Public Order Act 1994 (Section 70)	It is an offence to organise or participate in any trespassory assembly which has been prohibited by a Council on application from the chief officer of police. (Such prohibitions may only be ordered, for a period of up to 4 days, where such an assembly of 20 or more people would be without the landowner's permission, and may result in serious disruption to the life of the community, or serious damage to land or a building of historical, archaeological or scientific importance.)

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<p><b>Using metal detectors in a protected place</b></p>	<p>Ancient Monuments &amp; Archaeological Areas Act 1979 (Section 42)</p>	<p>It is an offence to use a metal detector in a protected place without the written consent of Ministers. A protected place is any place which is either a site of a scheduled monument or of any monument under the ownership or guardianship of Ministers or a local authority by virtue of this Act or is situated in an area of archaeological importance.</p> <p>It is also an offence to remove any object of archaeological or historic interest discovered through the use of a metal detector in a protected place without the written consent of Ministers. Under Scots Law, all finds must be formally reported to the Crown and not to do so is an offence under Treasure Trove and under the Civic Government (Scotland) Act 1982.</p>
<p><b>Vandalism</b></p>	<p>Criminal Justice (Scotland) Act 1980 (Section 78)</p>	<p>Anyone who, without reasonable excuse, wilfully or recklessly destroys or damages another's property commits this offence of vandalism.</p>