

National Access Forum



Scotland

Managing informal camping under the Land Reform (Scotland) Act 2003



Guidance Paper

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Introduction

This guidance is intended for those managing issues relating to informal camping, particularly in accessible roadside settings. The term ‘informal camping’ is used to refer to any camping that takes place outside formal, managed campsites, and this definition therefore includes ‘wild camping’ as defined in the Scottish Outdoor Access Code (see Appendix 2).

Informal camping takes place in a wide variety of places ranging from the wilder, more remote parts of Scotland to relatively accessible roadside sites, often on the shores of lochs. These diverse opportunities meet a wide range of needs - from those engaged in adventurous activities through to less confident or less mobile users, including families with young children. These varied types of camping are of long standing in many parts of Scotland, and can provide much fulfilment and enjoyment derived from our rich and spectacular natural heritage. This is particularly true for younger people, for whom camping can provide an introduction to outdoor activity that may shape the rest of their lives – and this activity forms the basis of the Duke of Edinburgh Award scheme.

Informal camping has become more popular in some locations in recent years, and a number of factors may have contributed to this suggested trend. Basic camping equipment is now widely available at very low cost in many high profile outlets. Although camping at outdoor music festivals is beyond the scope of this guidance and of Scottish access rights, the recent growth of such events has probably introduced new audiences to camping. It should also be noted that managed campsites with a range of facilities tend to be concentrated in the more popular tourist destinations, and the availability of such sites may indeed be decreasing, with some sites focusing on provision for caravans.

Informal camping does not usually cause problems, but difficulties can arise under some circumstances, often because of the behaviour of the campers involved, or because of the cumulative impacts of many users – and in some areas, these issues are also of long standing. In the most serious cases, the behaviour involved may be a criminal offence.

The Land Reform (Scotland) Act and Scottish Outdoor Access Code, and the accompanying powers and duties of local and national park authorities, now provide an important element in the management framework through which these issues should be addressed. Other legislation relating, for example, to car parking or antisocial behaviour can also play a key role

The Land Reform (Scotland) Act

The Land Reform (Scotland) Act 2003 provides rights of access to most land and inland water, subject to responsible behaviour as defined in the Scottish Outdoor Access Code. These rights extend to informal camping – which is likewise subject to responsible behaviour.

The Act includes various provisions which relate to camping. These are:

- Section 1 which indicates that access rights extend to ‘remaining on’ land for relevant purposes;
- Sections 2, 3 and 10 which refer to the Code as the source of guidance on responsible behaviour;
- the fact that the Act does not restrict the exercise of access rights overnight, and;
- Schedule 2 which inserts a new clause into the Trespass (Scotland) Act 1865 which repeals the offences in that Act if ‘done by a person in the exercise of the access rights created by (the 2003 Act)’. This removes the offences of occupying or encamping on private land without permission if this takes place in the exercise of access rights.

Camping is therefore a legitimate activity wherever access rights apply, including some locations close to roads, subject to responsible behaviour and any restrictions resulting from other legislation, including byelaws - for example concerning car parking. Access rights do not legitimise any activity that is an offence under other legislation and do not, for example, provide an ‘excuse’ for antisocial behaviour.

Scottish access rights apply to non-motorised recreation and do not therefore extend to activities that are entirely based on the use of a vehicle, such as sleeping in cars, camper vans or caravans.

The Scottish Outdoor Access Code

The Scottish Outdoor Access Code (the Code) provides detailed guidance on the responsibilities of those exercising access rights and of those managing land and water. This includes much general advice for recreational users covering such issues as fires, litter, waste and car parking. Part 5 also provides the following specific advice in relation to camping.

Responsible behaviour by the public

Access rights extend to wild camping. This type of camping is lightweight, done in small numbers and only for two or three nights in any one place. You can camp in this way wherever access rights apply but help to avoid causing problems for local people and land managers by not camping in enclosed fields of crops or farms animals and by keeping well away from buildings, roads or historic structures. Take extra care to avoid disturbing deer stalking or grouse shooting. If you wish to camp close to a house or building, seek the owner's permission. Leave no trace by:

- taking away all your litter
- removing all traces of your tent pitch and any open fire (follow the guidance for lighting fires)
- not causing any pollution.

Responsible behaviour by land managers

If you are experiencing large numbers of roadside campers or have well-used wild camping areas, you could work with your local authority and with recreational bodies to assist the management of such camping.

Although the Code includes all of the relevant principles, it does not provide detailed guidance that is explicitly directed at campers in locations that are relatively close to roads. The National Access Forum has drawn out the key points to inform a campaign to encourage responsible behaviour among campers in these situations (see Section 3).



Addressing problems when they occur

Where problems arise in association with camping, these can sometimes be addressed at the time they occur. This may be approached in one of two ways, depending on whether the behaviour concerned is irresponsible (contravening the guidance in the Code) or is a criminal offence (contravening the law). **Appendix 1 indicates when different types of behaviour are either irresponsible or criminal.**

What to do if you encounter irresponsible behaviour

Informal camping often takes place in a way that is entirely responsible, with campers choosing an appropriate location and leaving no trace of their presence. If you encounter behaviour that conflicts with the guidance in the Code but is not a criminal offence, a sensible course of action is to talk in a friendly way to the people involved, as it may just be thoughtless or the result of a lack of awareness. People will often modify their activity if they understand the reason for doing so. Ask them to change their behaviour, explaining if necessary that their actions are outside access rights. If they refuse to do so, they could then be asked to leave.

- Contacting the police

If a person's behaviour is threatening you should contact the police.

- Interdicts - to stop irresponsible behaviour

If an individual persistently behaves irresponsibly over a period of time, you may seek an interdict against that person. An interdict is a type of court order which would require the person to stop the behaviour concerned. A breach of the terms of an interdict can lead to various penalties including a fine or even imprisonment. The consent of the Procurator Fiscal is required to raise proceedings for breach of interdict.

What to do if you encounter criminal behaviour

If you encounter behaviour that is a criminal offence you should contact the police immediately. It may be helpful if you can ensure there is at least one other witness and if you can tell the police which offences are being committed. It may also be helpful to collect the vehicle registration numbers.

The police now have powers to issue on-the-spot fines called fixed penalty notices (FPNs) to people who are behaving in antisocial ways and causing annoyance to others. An FPN entails an on-the-spot fine of £50 for 'low level' anti-social offences, and can only be issued by a police officer, to people aged 16 or over. They apply to various offences - which are highlighted * in Appendix 1 below - under the Antisocial Behaviour etc. (Scotland) Act 2004.

When someone is issued with an FPN, they have 28 days to pay the fine or ask for a court hearing. If they don't pay the fine within that time, it will increase to £75 and be registered with the courts. If the fine is paid (to the clerk of the district court), there is no record as a criminal conviction, although the police will keep information about the FPN for two years. FPNs are regarded as an appropriate way to deal with 'low-level' offending, as they are swift, simple and cost-effective, place fewer demands on police and court resources, and avoid criminal records, and this approach is particularly useful where formal proceedings may be unlikely.

Addressing problems in the longer term

National campaigns to promote responsible camping

Scottish Natural Heritage is continuing to promote campaigns to raise campers' awareness of responsible behaviour, in particular at relatively accessible roadside sites, to help address these issues at a national level. This builds on the existing guidance in the Code, and the National Access Forum identified the following key messages for campers which are particularly relevant to roadside situations:

- avoid overcrowding by moving on to another location;
- carry a trowel to bury your human waste and urinate well away from open water, rivers and burns;
- use a stove or leave no trace of any camp fire. Never cut down or damage trees;
- take away your rubbish and consider picking up other litter as well;
- if in doubt, ask the landowner - following their advice may help you find a better camping spot, and;
- access rights are not an excuse for anti-social or illegal behaviour.

These messages have been incorporated into the SNH education campaigns to promote responsible camping.. A range of approaches have been undertaken in different years, include mass media advertising and joint promotional work with national information providers in the tourism sector, mainly targeted at relatively receptive campers who are likely to respond to such an approach. Also, a contrasting, more hard-edged promotional campaign was aimed at more resistant audiences for a limited period. These campaigns have included targeted advertising in selected retail outlets, and promotional campaigns linked to major outdoor music festivals which provide early experience of camping for many younger people. Swing tags were developed and distributed for attachment to tents and other camping equipment, with training for sales staff, to convey messages about responsible camping at the point of sale. This activity is kept under review, with further fresh campaigns and approaches being planned, maintaining the significant efforts at national level to promote enjoyment and to address problems that can sometimes be associated with camping - wherever they arise.



Managing issues at specific locations

If problems occur repeatedly at a particular place, longer term strategic management may be required at this location. This can help to pre-empt problems related to irresponsible or criminal behaviour and can also help to reduce impacts arising from the cumulative impact of large numbers of campers (whose individual behaviour may be responsible) in popular places.

Various management strategies can be used and the most appropriate approach, or combination of approaches, is likely to vary between different locations. Local Authority and National Park Authority Access Officers can offer advice on good practice visitor management options, and their contact details can be found at www.outdooraccess-scotland.com. Where the issues involved are more complex, the local access forum may be able to offer advice in identifying appropriate management approaches.

The general management options and practical solutions available are:

- **Face to face liaison** – As noted in Section 2, a sensible course of action for those experiencing camping-related problems is often to talk in a friendly way to the people involved, as the behaviour may just be thoughtless and people will often modify their activity if they understand the reason for doing so. This light touch approach may form part of a longer term strategy to manage issues arising from camping if sufficient people are available to keep an eye on the site at the times when problems normally arise. Estate staff or ranger patrols play an important role and it may be helpful to seek training in how to deal with challenging behaviour and face to face conflicts.
- **Providing targeted leaflets and other items** – It may be possible to provide further guidance on responsible camping through leaflets, information fliers or other types of items targeted at campers such as branded biodegradable litter bags or folding camping trowels. This approach may be most effective where the distribution of this information is linked to the needs of users – for example by making it available at local stores and filling stations, or in conjunction with fishing permits. Leaflets must be brief, clear and designed to appeal to the chosen audience. Guidance on writing positively about access can be found at www.outdooraccess-scotland.com and the information provided must be consistent with this. An example of an advice leaflet on lightweight camping, which was produced by the Mountaineering Council of Scotland (MCofS), is available at www.mcofs.org.uk/assets/pdfs/wildcamping.pdf Both MCofS and the Scottish Canoe Association have also produced guidance notes which summarise current best practice in outdoor sanitation and these also provide useful sources. These notes can be found at <http://www.mcofs.org.uk/where-to-go-leaflet.asp> and <http://www.canoescotland.com/Default.aspx?tabid=641> respectively.
- **Visitor information and signage** - Other types of information, including signage, may also help inform visitors of their responsibilities and remind them of the key messages from the Code. This could be provided on-site or at other prominent points such as community notice boards. SNH has produced a poster to promote responsible camping which can be used in appropriate places close to popular sites - this is available on the camping page at <http://www.outdooraccess-scotland.com> General guidance on good practice in access-related signage can also be found at www.pathsforall.org.uk/cms_uploads/SignageManual.pdf

- **Suggesting alternative locations** - Information suggesting alternative places, such as way markers to preferred camping spots, may help to spread the load to reduce the cumulative impacts arising. This should be advisory and should not suggest a restriction on camping under access rights unless this is supported by an appropriate byelaw (see below). It may be helpful to work with neighbouring landowners and the local community to identify suitable camping locations.
- **Providing equipment or infrastructure** – Providing various types of equipment at or near the location concerned can help to reduce problems linked, for example, to fire damage, human waste and litter. This may include:
 - providing bin bags and/or installing waste disposal points for litter collection;
 - building fire pits and/or barbeque areas and providing fire wood, or;
 - providing trowels to encourage burying of waste, or providing a mobile composting toilet.

As with the distribution of information (above), these approaches may work particularly well if linked to the needs of the campers concerned, for example by distribution of bin bags in conjunction with fishing permits.

- **Providing managed camp sites** - A high level of informal camping is often associated with a lack of managed camp sites or, where such sites exist, to limited provision at these facilities. This might, for example, include an exclusive focus on caravans or restrictions on certain types of user, such as those with dogs. Under these circumstances it may be worth considering the provision of suitable facilities – in conjunction with others if necessary. Such ‘official’ designated camp sites could include various services such as drinking water, washing facilities, toilets, fire pits and litter bins. This approach may also help to harness economic benefits from outdoor recreation and thus support the local economy. Further advice on creating such a facility can be sought from local planning authorities.
- **Managing car parking** – It may be appropriate to consider locating and designing parking areas so as to influence the spread and location of campers. Access rights do not extend to motor vehicle access, so it might also be appropriate to restrict parking, perhaps including measures to make road verges difficult to park on (such as soft mounds, planting or ditching). These approaches should be considered in conjunction with the relevant planning authority.
- **Byelaws** – If the above approaches are insufficient, or do not prove effective, it may be worth considering the creation of byelaws. A byelaw may be made by a statutory body such as a local authority or national park authority, the Forestry Commission, SNH or Scottish Water, and can restrict or regulate particular public rights in specific areas. Since byelaws create criminal offences, they cannot come into effect unless they have been confirmed by Ministers. The procedure for creating byelaws is relatively complex and this is therefore likely to be a measure of last resort. This approach should be discussed, in the first instance, with your local access officer. An example of a useful byelaw might be for prohibiting the consumption of alcohol in designated public places (Local Government (Scotland) Act 1973, s201), which then becomes a fixed penalty offence.

- **Management rules** – As an alternative to a byelaw, a local authority might use management rules under the Civic Government (Scotland) Act 1982, ss 112-117. However, it may be difficult to ensure effective enforcement action against those acting in contravention of management rules.
- **Police liaison** – persistent or serious problems involving criminal behaviour will need to be addressed through liaison with the police.

Under some circumstances, one of the above approaches may be effective when used in isolation. In many situations however, a combination of approaches is likely to prove most effective in reducing camping-related problems to an acceptable level. Joint working amongst public bodies, the community and voluntary organisations can be a successful way of harnessing resources to tackle the challenges faced.

A range of further information sources can be found in Appendix 3.

Further information

The Scottish Outdoor Access Code provides detailed guidance on the responsibilities of those exercising access rights and of those managing land and inland water – www.outdooraccess-scotland.com

Contact: Scottish Natural Heritage's Recreation and Access Group,
telephone: 01463 725000 or email: recreationandaccess@snh.gov.uk

Appendix 1: When are different types of behaviour irresponsible or criminal?

Note: The offences listed are for guidance only and do not constitute a complete or definitive interpretation of the law.

Issue	Responsible and irresponsible behaviour What the Code says...	Criminal offences
<p>Disturbing other people</p>	<p>Access rights do not extend to “a house, caravan, tent or other place affording a person privacy or shelter”, or to “sufficient adjacent land to enable those living there to have reasonable measures of privacy and to ensure that their enjoyment of that house or place is not unreasonably disturbed”.</p> <p>Houses and gardens “when close to a house or garden, you can respect people’s privacy and peace of mind by...keeping a sensible distance from the house...not lingering or acting in ways which might annoy or alarm people living in the house; and keeping noise to a minimum” (page 25)</p> <p>Access at night “If you are out at night, take extra care to respect people’s privacy and peace of mind” (page 26)</p> <p>Wild camping “..help to avoid causing problems for local people and land managers by....keeping well away from buildings... If you wish to camp close to a house or building, seek the owner’s permission.” (page 115)</p>	<p>Common law - breach of the peace Occurs when one or more persons conduct themselves in a riotous or disorderly manner anywhere, which alarms, annoys or disturbs other people.</p> <p>To prove a breach of the peace the most important thing is to prove that someone was alarmed, annoyed or disturbed. *fixed penalty offence</p> <p>Civic Government (Scotland) Act 1982 (Section 54) Persisting, to the reasonable annoyance of others, in playing musical instruments, singing, playing radios etc, and not desisting on being required to do so by a constable in uniform, is an offence. *fixed penalty offence</p>

<p>Damaging property and/or the environment</p>	<p>Care for your environment (natural heritage): “You can do this by not intentionally or recklessly disturbing or destroying plants, birds and other animals, or geological features”. (Page 18)</p> <p>“You must not intentionally disturb specially protected birds while nesting, or their young, and you must not intentionally uproot any wild plant. In a small number of areas and for very specific reasons, such as to protect a rare plant or bird, you might be asked to avoid a specific area or not to exercise your access rights.” (page 38)</p> <p>Care for your environment (cultural heritage): “...treat (cultural heritage) sites carefully and leave them as you find them by: not moving, disturbing, damaging or defacing any stones, walls, structures or other features...not digging or otherwise disturbing the ground surface...not taking anything away, including loose stones...” (page 41)</p> <p>“do not camp (or) light fires...on any cultural heritage site” (page 42)</p> <p>Cultural heritage sites are defined broadly to include a wide range of monuments or archaeological sites which may or may not be managed as such.</p>	<p>Wildlife & Countryside Act 1981 Part I makes it an offence to intentionally or recklessly kill or injure any wild bird (subject to certain exclusions) and certain wild animals, or pick or uproot wild plants without permission. It is also an offence to destroy a bird’s nest or its eggs or to obstruct a bird from using its nest. Similarly it is an offence to damage or destroy a place used by certain wild animals for shelter or to disturb such an animal whilst it is using a place of shelter.</p> <p>The Conservation (Natural Habitats &c.) Regulations 1994 Regulation 43 - It is an offence to pick, collect, cut, uproot or destroy any wild plant of a European protected species. Regulation 39 – It is an offence to deliberately or recklessly capture, injure or kill a wild animal of a European protected species, or to harass such an animal or to disturb it while it is rearing young, occupying its place of shelter or in such a way that might impair its ability to survive. It is also an offence to take or destroy the eggs of such an animal or to damage or destroy its breeding site or place of rest. European protected species occurring in Scotland include otter and bats.</p> <p>Nature Conservation (Scotland) Act 2004 (section 19) It is an offence to intentionally or recklessly damage any natural feature specified in an SSSI notification.</p> <p>Criminal Law (Consolidation) (Scotland) Act 1995, (section 52) Vandalism – Any person who, without reasonable excuse, wilfully or recklessly destroys or damages any property belonging to another, shall be guilty of the offence of vandalism *fixed penalty offence</p> <p>Common law – malicious mischief Consists in the wilful, wanton, and malicious destruction of, or damage to, the property of another person. There must be malice involved, rather than accidental damage, and examples may include injuring growing trees, maiming animals, or running to waste any liquid or substance. A difference from vandalism is that for vandalism there must be damage to actual property, whereas with malicious mischief financial damage arising from a criminal act is sufficient. This offence may be cited, rather than vandalism, if the value of damage is high. *fixed penalty offence</p>
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Issue	Responsible and irresponsible behaviour What the Code says...	Criminal offences
<p>Fires</p>	<p>The lighting of a fire is allowed as part of the exercise of access rights, if it is done responsibly.</p> <p>Lighting Fires: “Wherever possible, use a stove rather than light an open fire. If you do wish to light an open fire, keep it small, under control and supervised – fires that get out of control can cause major damage, for which you might be liable. Never light an open fire during prolonged dry periods or in areas such as forests, woods, farmland, or on peaty ground or near to buildings or in cultural heritage sites where damage can be easily caused. Heed all advice at times of high risk. Remove all traces of an open fire before you leave”.</p> <p>(Page 102)</p> <p>On the inter-tidal foreshore, there are also common law rights for public recreational use which continue to exist, and these rights include lighting a fire. The foreshore is the land between the upper and lower ordinary spring tides.</p> <p>(Page 16)</p>	<p>There continue to be legal offences controlling the lighting of fires in certain situations:</p> <p>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 give him reasonable cause for alarm or annoyance, or so as to endanger any property, shall be guilty of an offence, and liable on summary conviction to pay a fine.” It may be taken that access rights have extended the ‘public place’ provision so it now applies to most land. This offence could apply quite widely, and is particularly important if people or property are put in danger. The words “reasonable cause for alarm or annoyance” are important, since just because someone says they are annoyed does not always mean that an offence has been committed. There has to be a ‘reasonable’ basis, with a significant likelihood of danger or public nuisance.</p> <p>Roads (Scotland) Act 1984 (s. 100) – “a person who,.. by lighting a fire within..30 metres of a road, damages the road or endangers traffic on it” commits an offence under this Act.</p>
<p>Human waste</p>	<p>Human waste: If you need to urinate, do so at least 30m from open water or rivers and streams. If you need to defecate, do so as far away as possible from buildings, from open water or rivers and streams and from any farm animals. Bury faeces in a shallow hole and replace the turf.</p> <p>(page 102)</p>	<p>Control of Pollution Act 1974 (as amended) (s.31) -</p> <p>If you cause or knowingly permit to enter surface or ground water</p> <ul style="list-style-type: none"> • any poisonous, noxious or polluting matter, or • any solid waste matter, <p>you are committing an offence.</p> <p>Civic Government (Scotland) Act 1982 (Section 47)</p> <p>Any person who urinates or defecates in such circumstances as to cause, or be likely to cause, annoyance to any other person shall be guilty of an offence, and liable on summary conviction to a fine.</p> <p>*fixed penalty offence</p>

Issue	Responsible and irresponsible behaviour What the Code says...	Criminal offences
Litter	<p>Litter: Take away all your litter. Take particular care not to drop things like bottles, cans or plastic bags as these can damage machinery and if eaten by a farm animal or a wild animal they can cause severe injury or death. Do not leave any food scraps or associated packaging as these might be eaten by animals and help to spread diseases. (page 103)</p>	<p>Environmental Protection Act 1990 (Section 87) It is an offence to drop or deposit and leave litter in any public open place (a place in the open air where you can go without paying).</p>
Livestock	<p>Wild Camping: Help to avoid causing problems for local people and land managers by not camping in enclosed fields of crops or farm animals. (page 115)</p> <p>Picnicking: For your own health, avoid picnicking in fields where there are farm animals (or may have been recently) or where the farmer has indicated that the field has recently been sprayed with lime or slurry. Do not feed farm animals and take all litter, including any food scraps, away with you. (page 108)</p> <p>Dogs: various relevant guidance, including - never let your dog worry or attack livestock - do not let your dog into fields where there are lambs, calves or other young animals. (page 84,85)</p>	<p>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.</p> <p>Dogs (Protection of Livestock) Act 1987 (Section 4) This Act provides a defence for people who kill or injure a dog which is worrying livestock.</p>
Dogs	<p>Various guidance, including - in recreation areas and other public places avoid causing concern to others by keeping your dog under close control or on a short lead (page 85) - dog faeces can carry diseases that can affect humans, farm animals and wildlife. The highest risks are in fields of cattle, sheep and other animals, in fields where fruit and vegetables are growing, and in public open places...If your dog defecates in these sorts of places, pick up and remove the faeces and take them away with you. (page 45)</p>	<p>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. Under the definition adopted by this Act, this does not extend to farmland.</p>

Issue	Responsible and irresponsible behaviour What the Code says...	Criminal offences
<p>Picking or collecting/ taking away</p>	<p><i>Picking wild berries and mushrooms:</i> Customary picking of wild fungi and berries for your own consumption is not affected by the legislation. Care for the environment by following any agreed guidance on this activity. However, being on or crossing land or water for the purpose of taking away, for commercial purposes or for profit, anything in or on the land or water is excluded from access rights. (Page 108)</p> <p>Collecting wood for a fire could be considered customary too if for personal use but otherwise it might be considered as theft. See advice on Damage to habitats or species.</p>	<p><i>Wildlife and Countryside Act 1981</i> It is an offence under the Wildlife and Countryside Act 1981 to uproot mushrooms, but not to pick them.</p> <p>Picking mushrooms and collecting firewood on a large or commercial scale might be regarded as theft under Scots Law, although it is unclear whether a prosecution would be likely to result in practice.</p>
<p>Motor Vehicles and parking</p>	<p><i>Car parking:</i> When you park your vehicle it is important not to cause any damage or create an obstruction by:</p> <ul style="list-style-type: none"> • not blocking an entrance to a field or building; • not making it difficult for other people to use a road or track; • having regard for the safety of others; • trying not to damage the verge; and • using a car park if one is nearby. <p>(page 76)</p>	<p><i>Road Traffic Act 1988 (Section 34 and 22)</i> “It is an offence to drive a motor vehicle without lawful authority on:</p> <ul style="list-style-type: none"> • land of any description (not forming part of a road), or • a footpath or bridleway except in an emergency.” <p>Section 34 makes an allowance for a motor vehicle to be driven off-road for no more than 15 yards solely in order to park the vehicle. However, it specifically notes that this exception does not confer any right to park the vehicle on the land, and clarifies that this may constitute trespass if done without lawful authority.</p> <p>Section 22 makes it an offence to park or leave a vehicle or its trailer in a position likely to cause danger to other road-users.</p>

Appendix 2: Glossary of camping terms - *DRAFT*

Glossary of Camping Terms - Definitions / access rights / issues

In this glossary, each entry has up to three component parts, being

- (a) a definition of the term
- (b) a statement on the interpretation of its likely standing in relation to the rights of responsible access under the Land Reform (Scotland) Act 2003 (“access rights”)
- (c) further description of relevant aspects and issues.

1. Camping:

- (a) inhabiting and sleeping overnight in a tent, or a temporary shelter or bivouac, being ‘under canvas’ or equivalent fabrics including bivvy bags.

2. Formal camping:

- (a) Camping on established camping sites, or with landowner permission, or by permit, where a fee may be charged, and service facilities may be provided at varying levels, eg. water supply, toilets/showers, etc.
- (b) The access rights do not extend to camping on formal camping sites.
- (c) Formal camping includes established managed commercial campsites, and also includes relatively temporary camp-sites established with formal permission for a specific time period and purpose, such as the camping areas at outdoor music festivals, or scout camps and equivalents. (Other access rights, such as crossing over the land, may potentially remain, if the privacy of occupied tents is respected).

3. Informal camping:

- (a) Any camping which takes place outside formal campsites, so without paying charges and without services provided.
- (b) Access rights generally extend to informal camping, except for certain types as noted in 7 and 8 below.

Informal camping to which access rights will generally apply:

4. ‘Wild camping’ - lightweight / small numbers / short-stay:

- (a) Described in the Scottish Outdoor Access Code as being lightweight, done in small numbers and only for two or three nights in any one place.
- (b) Access rights extend to all wild camping – that is lightweight, small numbers and short-stay camping.
- (c) Exercise of access rights of course requires compliance with the Act’s provisions requiring responsible behaviour, and excluding certain land areas (section 6) such as residential privacy zones and curtilage.

The Code explanation is in two parts, first stating the statutory position in the Act (i) “You can camp in this way wherever access rights apply...”, and then with subsidiary Code guidance (ii) “...but help avoid causing problems for local people and land managers by not camping in enclosed fields of crops or farm animals and by keeping well away from buildings, roads or historic structures. Take extra care to avoid disturbing deer stalking or grouse shooting.” The same Code section also includes guidance for Land Managers: “If you are experiencing large numbers of roadside campers or have well-used wild camping areas, you could work with your local authority and with recreational bodies to assist the management of such camping”.

5. Roadside camping:

(a) This is informal camping beside a road (including by cyclists and others) and/or near a vehicle.

(b) Access rights apply to the land at roadsides, so roadside camping which is lightweight/small numbers/short-stay is lawful (as under (i) above), while following the Code guidance (as under (ii) above) can help reduce impacts.

(c) The Act (Schedule 2(1)) legitimises camping 'on any land' and 'near any road' through its amendment to the Trespass (Scotland) Act 1865. This National Access Forum Guidance Paper is particularly intended to assist those managing roadside camping at accessible roadside settings.

6. Fishing camping:

(a) This is informal camping which is undertaken by people on a fishing trip, near where they are fishing.

(b) Access rights apply to the land at lochshores, river-sides, etc, so fishing camping which is lightweight/small numbers/short-stay is lawful under (i) above, and the (ii) guidance will also apply.

(c) Fishing camping has parallels with roadside camping, as both are informal camping associated with another activity which lies outside access rights (ie. fishing, and motorised vehicles), but it is taken to be within access rights - if done responsibly - because access rights do apply to the land involved. The camping is an associated but distinct recreational activity, integral to the experience and enjoyment of the outdoor waterside location.

Informal camping or shelter to which access rights generally do not apply:

7. Camping for non-recreational purposes (eg political protest, residence):

(a) This is informal camping which takes place for purposes other than for recreation, education, etc.

(b) Access rights do not extend to these forms of camping, as they are not compliant with the purposes as stated in the Act (Section 1).

(c) There have been recent examples of this kind of camping for various 'political' purposes, such as at the A9 roadside encampment near Bruar, the 'Occupy' camping at St Andrews Square Edinburgh, and a recent camp beside the Scottish Parliament. Other non-compliant purposes may include when informal camping extends beyond a few days into weeks, so its purpose may shift to having a residential function.

8. Sleeping in camper-vans, caravans, cars and other motorised vehicles:

(a) Overnight parking and sleeping in camper-vans, caravans, cars and other motorised vehicles.

(b) Access rights do not extend to these activities because motor vehicles are excluded from the rights under the Act (section 9.f), and these activities are based in a motorised vehicle.

(c). The use and parking of camper vans and cars on roads and lay-bys is generally subject to road traffic legislation and regulations. There have been recent developments over the validity of most 'No Overnight Parking' signs on roads and lay-bys under such traffic regulations in Scotland.

The off-road parking of a motor vehicle, on the verges or adjacent land, may be trespass if lacking permission or lawful authority – see Road Traffic Act 1988 s.34(5). The Act provides that byelaws under the Act (section 12) may regulate or prohibit the use of vehicles so as to protect and further the interests of persons who are exercising or might exercise access rights; and byelaws under national park legislation may regulate the use of vehicles other than on a road.

9. Other issues - Cumulative Impact:

(a) Issues over cumulative impact can develop at particular popular locations - even though the campers' individual behaviour is lawful and responsible - where repeated use can accumulate to be equivalent to long-stay occupancy. The problems arising can include wear and tear at the locality, and hygiene issues over capacity for the disposal of human waste.

(b) Access rights do apply for lightweight/small numbers/short-stay campers, so management approaches may be needed.

(c) As discussed in this Guidance Paper, a broad range of management approaches is available.

March 2016

Appendix 3: Further information

Access legislation references

Land Reform (Scotland) Act 2003 www.scotland-legislation.hmso.gov.uk

Scottish Outdoor Access Code www.outdooraccess-scotland.com

SNH (2004). *Summary of the Access Legislation*. SNH, Edinburgh. www.snh.org.uk

Dealing with antisocial and criminal behaviour

John Pilkington (2007), *Scottish Beat Officers Companion*. Glasgow. ([Available on line. Click here to link to amazon.co.uk](#))

Also helpful are the following websites:

- www.crimereduction.gov.uk/
- www.crimereduction.gov.uk/toolkits/as00.htm
- www.antisocialbehaviourscotland.com

General guidance on integrating access and land management

SRPBA (2005). *Managing Access: Guidance for Owners and Managers of Land*. SRPBA, Edinburgh (Available free to members, and priced £10 to others).

Scottish Natural Heritage (2007) *Public Access and Land Management (PALM)*. SNH, Battleby. www.outdooraccess-scotland.com

Scottish Natural Heritage (2003) *Management for People*. SNH, Battleby. www.outdooraccess-scotland.com Scottish Natural Heritage (2005).

Scottish Natural Heritage (2004). *Towards responsible use: influencing recreational behaviour in the countryside*. ISBN 1 85397 405 6. SNH, Battleby.

Scottish Natural Heritage (2004). *Communication Not Conflict: using communication to encourage considerate shared recreational use of the outdoors*. ISBN 1 85397 406 4. SNH, Battleby.

Scottish Natural Heritage (2007). *A Brief Guide to Laws relevant to Outdoor Access in Scotland*. SNH, Edinburgh. www.outdooraccess-scotland.com

Scottish Natural Heritage (2005). *A Brief Guide to Occupiers' Legal Liabilities in Scotland in relation to Public Outdoor Access*. SNH, Edinburgh. www.outdooraccess-scotland.com

Scottish Natural Heritage (2005). *Signs Guidance for Farmers and other Land Managers*. SNH, Battleby. www.outdooraccess-scotland.com

Paths for All Partnership (2007) *Advisory Signage for Outdoor Access. Good practice principles*, PFAP, Alloa, www.pathsforall.org.uk/cms_uploads/SignageManual.pdf

SEERAD (2002). *Codes of Recommendations for the Welfare of Livestock - Animal Health and Biosecurity*. www.gov.scot

Scottish Executive Health Department – *E. Coli 0157 Recreational Use of Animal Pasture*. www.gov.scot

Visitor Safety in the Countryside Group (2003). *Managing Visitor Safety in the Countryside – Principles and Practice*. VSCG - go to www.vscg.co.uk for contact details.

Helping the public enjoy camping

It may be helpful to be aware of the following sources of further information and guidance for the public:

- **Wild Camping Advice**

An information leaflet produced by the Mountaineering Council for Scotland (MCofS) www.mountaineering-scotland.org.uk/leaflets/wildcamp.html

- **Where to 'Go' in the Great Outdoors**

This leaflet explains key points about toilet hygiene, published by the MCofS and the Scottish Environment Protection Agency. Copies of the leaflet are available from the MCofS office and a summary is provided on their website www.mountaineering-scotland.org.uk/leaflets/toilet.html.

- **Scottish Camping**

Has been established to provide the most accessible, accurate and comprehensive directory of campsites and caravan parks in Scotland, for those planning camping holidays in Scotland. Scottish Camping believe that with over 500 sites listed they are the leading online guide for those who wish to camp in Scotland. www.scottishcamping.com

- **Caravan Parks and Camping in Scotland**

Whether you are looking for a budget family break, a romantic get-away-from-it-all or just a way to stop and smell the roses, Scotland offers a range of campsites and caravan sites to suit all tastes. www.visitscotland.com/library/caravansandcampsites

- **Cool Camping Scotland**

Cool Camping Scotland is a book that seeks to understand contemporary campers' needs with a hand-picked selection of outstanding tent-oriented campsites. Cool Camping is all about the best places to camp. That means countryside campsites, stunning locations, great views and other special places to get outdoors. www.coolcamping.co.uk